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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046185
Party	Plaintiff Amanda Blackhorse, Marcus Briggs, Phillip Gover, Shquanebin Lone-Bentley, Jillian Pappan, and Courtney Tsotigh
Correspondence Address	JESSE WITTEN DRINKER BIDDLE AND REATH LLP 1500 K STREET NW, SUITE 1100 WASHINGTON, DC 20005-1209 UNITED STATES Jesse.Witten@dbr.com, John.Ferman@dbr.com, Lee.Roach@dbr.com, Stephen.Wallace@dbr.com
Submission	Other Motions/Papers
Filer's Name	Jesse A. Witten
Filer's e-mail	Jesse.Witten@dbr.com, robertraskopf@quinnemanuel.com, toddanten@quinnemanuel.com, claudiabogdanos@quinnemanuel.com, dctrademarks@dbr.com
Signature	/Jesse A. Witten/
Date	03/21/2012
Attachments	Notice of Deposition - Briggs-Cloud transcript.pdf (170 pages)(688061 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 1,606,810 (REDSKINETTES)
Registered July 17, 1990,

Registration No. 1,085,092 (REDSKINS)
Registered February 7, 1978,

Registration No. 987,127 (THE REDSKINS & DESIGN)
Registered June 25, 1974,

Registration No. 986,668 (WASHINGTON REDSKINS & DESIGN)
Registered June 18, 1974,

Registration No. 978,824 (WASHINGTON REDSKINS)
Registered February 12, 1974,

and Registration No. 836,122 (THE REDSKINS—STYLIZED LETTERS)
Registered September 26, 1967

Amanda Blackhorse, Marcus Briggs,)	
Phillip Gover, Jillian Papan, and)	
Courtney Tsotigh,)	
)	
Petitioners,)	
)	
v.)	Cancellation No. 92/046,185
)	
Pro-Football, Inc.,)	
)	
)	
Registrant.)	
_____)	

**PETITIONERS' NOTICE OF FILING OF DEPOSITION OF
MARCUS BRIGGS-CLOUD**

PLEASE TAKE NOTICE that Petitioners Amanda Blackhorse, Marcus Briggs-Cloud, Phillip Gover, Jillian Papan, and Courtney Tsotigh hereby file the transcript of the deposition of Marcus Briggs-Cloud along with the exhibits used at the deposition.

On March 14, 2011, Petitioners and Registrant Pro-Football, Inc. filed a Joint Stipulation Regarding Admissibility of Certain Evidence and Regarding Certain Discovery Issues [Docket No. 31], which, among other things, provided that depositions of Petitioners taken during the discovery period shall be admissible to the same extent as if taken during the testimony period. The Board commended the parties for reaching the stipulation. *See* Order Summarizing Pre-Trial Conference of May 5, 2011 [Docket No. 39] at 4-5.

Pursuant to the Joint Stipulation, Registrant took the deposition of Marcus Briggs-Cloud during the discovery period. Petitioners are filing the entire transcript and all deposition exhibits out of an abundance of caution in light of 37 CFR § 2.125, which calls for the filing of an entire transcript and all exhibits of a deposition taken during the testimonial period. Certain portions of the deposition, which will be cited in Petitioners' trial brief, are relevant to show that Petitioner Marcus Briggs-Cloud has standing under 15 U.S.C. § 1064 and to address Registrant's affirmative defense of laches. However, by filing the entire transcript and all deposition exhibits, Petitioners do not concede that material that is not cited in their trial brief is admissible and relevant.

Respectfully Submitted,

Dated: March 21, 2012

/Jesse A. Witten/
Jesse A. Witten
Jeffrey J. Lopez
John D. V. Ferman
Lee Roach
Stephen J. Wallace
DRINKER, BIDDLE & REATH, LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005
Telephone: (202) 842-8800
Fax: (202) 842-8465
Email: Jesse.Witten@dbr.com

Counsel for Petitioners

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 21, 2012, he caused a copy of the foregoing Petitioners' Notice of Filing of Deposition of Marcus Briggs-Cloud and the Attachment to Petitioners' Notice of Filing of Deposition of Marcus Briggs-Cloud to be served via Federal Express upon the following:

Robert Raskopf
Claudia T. Bogdanos
Todd Anten
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue, 22nd floor
New York, NY 10010

/Jesse A. Witten/

ACKNOWLEDGMENT OF DEPONENT

I, MARCUS ANTHONY BRIGGS-CLOUD, do hereby
acknowledge that I have read and examined the
foregoing testimony, and the same is a true, correct
and complete transcription of the testimony given by
me and any corrections appear on the attached Errata
sheet signed by me.

7/1/11

(DATE)

[Signature]

(SIGNATURE)

Diana Blackwell

(NOTARY PUBLIC)



1 E R R A T A S H E E T

2 IN RE: Blackhorse, et al. -v-

3 Pro-Football, Inc.

4 PAGE LINE CORRECTION AND REASON

5 133 19 Add, "The two schools that I refer to in Exhibit 7,
the email to Ann Braude at Harvard, are not Native
schools," Reason: Addition.

6
7 137 19 Change "etiology" to "etymology" Reason:
Transcription error/typo

8 140 19 Change "yaatkeschathle" to "yaatketeschaathle"
Reason: Transcription error/typo.

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20

21

22

(DATE)

MARCUS ANTHONY BRIGGS-CLOUD

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

- - - - -x

AMANDA BLACKHORSE, MARCUS BRIGGS, :

PHILLIP GOVER, SHQUANEBIN :

LONE-BENTLEY, JILLIAN PAPPAN, :

AND COURTNEY TSOTIGH, :

Petitioners, : Cancellation No.

v. : 92/0467,185

PRO-FOOTBALL, INC., :

Registrant. :

- - - - -X

(Caption continues on next page)

Deposition of MARCUS ANTHONY BRIGGS-CLOUD

Washington, DC

Thursday, June 23, 2011

9:01 a.m.

Reported by: Debra A. Whitehead

1 (Caption continued from previous page)

2 - - - - -x

3 In Re Registration No. 1,606,810 (REDSKINETTES) :

4 Registered July 17, 1990; :

5 Registration No. 1,085,092 (REDSKINS) :

6 Registered February 7, 1978; :

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13 Registered February 12, 1974; :

14 And Registration No. 836,122 (THE REDSKINS-STYLIZED :

15 LETTERS), Registered September 26, 1967 :

16 - - - - -x

17

18

19

20

21

22

1 Deposition of MARCUS ANTHONY BRIGGS-CLOUD, held
2 at the offices of:

3
4
5 DRINKER BIDDLE & REATH LLP
6 1500 K Street, NW
7 Suite 1000
8 Washington, DC 20005
9 (202) 842-8800

10
11
12
13
14 Pursuant to Notice, before Debra A. Whitehead,
15 an Approved Reporter of the United States District
16 Court and Notary Public.

A P P E A R A N C E S

ON BEHALF OF PETITIONERS AND THE WITNESS:

JOHN D.V. FERMAN, ESQUIRE

DRINKER BIDDLE & REATH LLP

1500 K Street, NW

Washington, DC 20005

(202) 842-8800

ON BEHALF OF REGISTRANT:

ROBERT L. RASKOPF, ESQUIRE

TODD ANTEN, ESQUIRE

QUINN EMANUEL URQUHART & SULLIVAN, LLP

51 Madison Avenue

22nd Floor

New York, New York 10010

(212) 849-7000

ALSO PRESENT:

DAVID P. DONOVAN, Washington Redskins

C O N T E N T S

EXAMINATION OF MARCUS ANTHONY BRIGGS-CLOUD	PAGE
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By Mr. Ferman	134

E X H I B I T S

(Attached to transcript)

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22		

P R O C E E D I N G S

(Briggs-Cloud Exhibit 1 and Briggs-Cloud Exhibit 2 marked for identification, to be attached to the transcript.)

MARCUS ANTHONY BRIGGS-CLOUD

having been duly sworn, testified as follows:

MR. FERMAN: I want to introduce myself. I'm John Ferman, from Drinker, Biddle & Reath, on behalf of the petitioners, and specifically today Mr. Briggs-Cloud.

EXAMINATION BY COUNSEL FOR REGISTRANT

BY MR. RASKOPF:

Q Good morning, Mr. Briggs-Cloud.

A Oh, good morning.

Q Is it Briggs or Briggs-Cloud?

A Briggs-Cloud.

MR. RASKOPF: What stipulation would you like to make?

MR. FERMAN: The stipulation that all objections other than form objections are preserved for later on for trial.

MR. RASKOPF: Sure.

1 MR. FERMAN: And that applies also to I
2 think the deposition that was taken for Amanda
3 Blackhorse yesterday. That wasn't put on the record.
4 I want to make sure.

5 MR. RASKOPF: We have a stipulation to that
6 exact thing.

7 MR. FERMAN: I understand. I just want to
8 get it on the record.

9 MR. RASKOPF: Fine.

10 BY MR. RASKOPF:

11 Q So back to, it is Briggs-Cloud. Right?

12 A Yes.

13 Q So I'd like to hand you documents that have
14 been -- first I would like to hand you the document
15 that's been previously marked in another witness's
16 deposition. It's called Gover-1. Then I'm going to
17 show you two documents that have been premarked as
18 Briggs-Cloud 1 and Briggs-Cloud 2.

19 Starting with the Gover -- 1, perhaps.
20 We'll get to the other ones in a minute.

21 A There something specific you want me to
22 read?

1 Q No. Just take a quick look. My question
2 is going to be whether you recognize it as the
3 petition that you authorized for filing in this case.

4 A Yes.

5 Q And the petition is fair and accurate?

6 A Yes.

7 Q And there is nothing false or misleading in
8 the petition. Correct?

9 A There were a couple corrections. This has
10 Gekakwitha; it's Tekakwitha, with a T.

11 Q Where are you on the first page?

12 A On the first page, yes.

13 Q And where exactly are we? Ah, Gekakwitha?

14 A Tekakwitha.

15 Q Second-to-last line of the first page of
16 Document ID GOVER 778?

17 A Uh-huh.

18 Q And how should that be spelled?

19 A T-E-K-A-K-W-I-T-H-A.

20 Q Okay. Is there anything else that is not
21 accurate?

22 A Unh-unh. No.

1 Q Is the caption accurate? It says Marcus
2 Briggs?

3 A Where is that?

4 Q The caption is the thing on the first page.

5 A Oh.

6 Q See the second name, that's supposed to be
7 you?

8 A Correct.

9 Q Now, so is it Marcus Briggs or is it
10 Briggs-Cloud?

11 A Marcus Briggs-Cloud.

12 Q So that's an error, also; huh? Yes?

13 A It was accurate at the time.

14 Q Oh, okay. Can you explain how it
15 transitioned from not accurate to accurate?

16 A My -- in English kinship structure you call
17 it a great uncle, in my culture we say grandfather,
18 who would be the brother to my grandmother, asked me
19 to take their last name to keep the name alive.

20 Q And his last name was Cloud?

21 A Cloud. Correct.

22 Q Is there a reason why the Cloud, the word

1 "Cloud" follows the word "Briggs," as opposed to
2 Cloud-Briggs?

3 A It sounded better.

4 Q You just liked it better. Okay.

5 When was this?

6 MR. FERMAN: For clarification, the name
7 change?

8 BY MR. RASKOPF:

9 Q When was the official changing of your
10 name?

11 A 2008.

12 Q And what were you required to do in order
13 to become Marcus Briggs-Cloud?

14 A I had to file a request for name change at
15 the courthouse. I had to publish it in the local
16 newspaper for so many days, I don't remember the
17 number. And I believe just show up for court, and the
18 judge signed off on it. I had to -- I stated the
19 reason why. He approved it.

20 Q Did you have to fill out an affidavit or
21 something in order to get the change made?

22 A Yes.

1 Q And what courthouse was this in?

2 A Norman, Oklahoma.

3 Q Was it a state courthouse or federal
4 courthouse?

5 A The county.

6 Q The county courthouse.

7 And you have papers on this. Right?

8 A I do.

9 Q And a copy of the judge's order authorizing
10 you to change your name?

11 A I do.

12 MR. RASKOPF: I call for its production at
13 some time.

14 MR. FERMAN: We will take it under
15 consideration. And I would ask that you specify the
16 document request that it goes to.

17 MR. RASKOPF: It doesn't go to a document.
18 If -- it doesn't go to a document request; it goes to
19 him having changed his name and being the incorrect
20 person on the caption. And right now he is not --
21 well, okay. I think we are where we are.

22 BY MR. RASKOPF:

1 Q The next document is the interrogatory
2 responses. Look at Briggs-Cloud 1 for identification,
3 and let me know if you recognize it as the first set
4 of interrogatories that you prepared and authorized to
5 be served on us in this case.

6 MR. FERMAN: Object to the form of the
7 question.

8 A This here name is spelled wrong.

9 Q So what page are you on?

10 MR. FERMAN: He's just asking if those are
11 your interrogatory responses.

12 BY MR. RASKOPF:

13 Q Yeah, why don't you go through it, and then
14 you can make any changes that you think are
15 appropriate.

16 A Yes.

17 Q All right. And the contents of the Exhibit
18 1 are fair and accurate?

19 A With exception to three things.

20 Q Okay. And what would they be?

21 A Where -- when it says that I teach Native
22 studies for the Muscogee Nation.

1 Q Just give us the page --

2 A Okay.

3 Q -- and Interrogatory Number to which it
4 applies.

5 A Page 5. It's the second paragraph, the
6 first full paragraph, the last line. It says,
7 "Petitioner has been a Native American studies teacher
8 for the Muscogee Nation."

9 It's the College of the Muscogee Nation.

10 Q Okay.

11 A The other one was Page 12, the fifth line
12 from the bottom. It says the President was Semelee De
13 Atzlan. And that name should be spelled S -- I mean
14 C-E-M.

15 Q C-E --

16 A M.

17 Q -- M, space, capital M, or --

18 A No. This is all one word.

19 Q Okay. C-E-M?

20 A Yeah. E-L-I.

21 Q E-L-I. So it's Cemeli. Oh, I see.

22 Instead of S-E-M-E-L-E-E, it's C-E-M-E-L-I?

1 A Correct.

2 Q Okay.

3 A And finally, this publication here.

4 MR. FERMAN: Page?

5 A Page 23 at the bottom, entitled Resisting
6 Imperial Peace, has been published. It says it will
7 be published, but it's already been published.

8 Q Okay. It has been published. Was it --

9 A Not at the time of this, it had not been
10 published. But I wanted to make that note.

11 Q All right. So when you wrote this it was
12 correct, but it has now been published?

13 A Correct.

14 Q All right. So it's correct, but now you're
15 supplementing your response by saying that the article
16 entitled Why Languages Matter, published by the
17 University of Arizona Press --

18 A That will be published.

19 Q Okay. Which article was it? The Why
20 Languages Matter or Resisting --

21 A No; the Resisting Imperial Peace.

22 Q My fault. So it is Resisting Imperial

1 Peace has now been published by the Ecumenical
2 Association of Third World Theologians?

3 A It's been published by the journal Race And
4 Religion.

5 Q By the Journal of Race and Religion?

6 A Correct.

7 Q And who is the --

8 A Sorry?

9 Q Who is the publisher of the Journal of
10 Race --

11 A That's the publisher. That's who published
12 it.

13 Q Okay.

14 A It is produced by the Ecumenical
15 Association of Third World Theologians.

16 Q Thank you.

17 Are these interrogatory responses otherwise
18 complete?

19 A Yes.

20 Q And are they now fair and accurate?

21 MR. FERMAN: Object to the form.

22 But go ahead. You can answer the question.

1 I'm just objecting to the form of the question.

2 A Yes.

3 Q And did you write the answers to each of
4 these questions?

5 A I dictated them, and they were sent to me
6 for review. And I corrected some things and sent it
7 back.

8 Q When you say you dictated them, you mean --

9 A Via phone.

10 Q All right. So you were speaking to someone
11 on the phone and telling them what your answer to each
12 of these questions would be?

13 MR. FERMAN: I'm going to object and
14 instruct the witness, you can answer that generally
15 yes or no, but I don't want you to get into any
16 communications, specific communications you had with
17 that person.

18 MR. RASKOPF: I didn't ask for specific
19 communications.

20 MR. FERMAN: I'm just giving a cautionary
21 instruction.

22 A Yes.

1 Q And did you dictate every one of these
2 answers?

3 A I don't remember.

4 Q You don't have an understanding one way or
5 the other as to whether every answer was one that you
6 dictated?

7 MR. FERMAN: I'm going to object and ask
8 for clarification. Are you asking about responses
9 that, for example, are simply objections, like Number
10 30?

11 MR. RASKOPF: My question remains.

12 MR. FERMAN: I'm objecting to the form.

13 A Are you -- are you asking, though, did I
14 verbally dictate or did I make corrections via e-mail
15 or ...

16 Q No. Did you verbally dictate, you know,
17 the answers to the questions? I'm going to assume
18 that you didn't dictate the objections that the
19 lawyers make.

20 A I don't remember. This is a long time ago.

21 Q All right. Okay. This was August 19th,
22 2010?

1 A Uh-huh.

2 Q And so it was about ten months ago, but you
3 don't remember?

4 MR. FERMAN: Objection. Asked and
5 answered.

6 A Correct.

7 Q Okay. Did you see anyone else's responses
8 to their interrogatories?

9 A I did not.

10 Q You have provided some documents in
11 connection with requests for production that have been
12 made in this case. The case was filed in 2006.

13 Do you remember that?

14 A Yes.

15 Q August 2006.

16 At or about the time that --

17 MR. RASKOPF: Withdrawn.

18 BY MR. RASKOPF:

19 Q And there was a time before that when you
20 were asked to participate in this?

21 MR. FERMAN: Object to the form.

22 A Are -- are you making a statement, or are

1 you asking me a question?

2 Q My question was, there was a time when you
3 were asked before the filing of the petition to
4 participate in this, was there not?

5 MR. FERMAN: Object to the form.

6 BY MR. RASKOPF:

7 Q I'm not asking you for a specific time.
8 I'm just saying, was there a time?

9 A You're asking me was there a time before
10 the date of this petition in August 2006 if I was
11 asked to be a part of it?

12 Q Yes.

13 A Yes.

14 Q Right. Do you remember how long before the
15 petition was filed that you were asked to participate
16 in this case?

17 A I don't remember.

18 Q A year or less?

19 A I can tell you this, that I remember -- I
20 will tell you the timeline that I remember of events,
21 but time spans, I don't remember.

22 A A friend of mine called me named Kelley

1 Berry, a Kiowa person, and said he had a friend that
2 he met. I don't remember his name. He said, do you
3 want to be -- he says you're all into activism, how
4 about you jump on with this case to cancel the
5 Washington football team mascot. And I said, that
6 sounds like something I'm interested in. I need to
7 hear more about it.

8 And he gave me contact information to that
9 individual, who contacted me, vaguely told me about
10 what was going to transpire, and asked permission to
11 give my contact information to Suzan Shown Harjo, and
12 that, in addition, my interest in the case. To which
13 she called me an evening in Cincinnati, at my aunt's
14 home. And we spoke about this. And that's all I
15 remember.

16 Q And that was the first time that you had
17 spoken to Suzan Harjo, when she called you at your
18 aunt's home in Cincinnati, or did you know her from
19 other places?

20 A I know her from other places.

21 Q So when did you have any communication
22 whatsoever with Suzan Harjo?

1 MR. FERMAN: Object to the scope.

2 BY MR. RASKOPF:

3 Q I was talking about before the phone call
4 at your aunt's house in Cincinnati.

5 A Can you ask the question again?

6 Q Do you remember the first time that you
7 ever had communication directly with Suzan Harjo?

8 A I don't remember the first time.

9 Q All right. Do you remember the content?
10 Do you remember what the subject matter of the first
11 communication you ever had with her was?

12 A I don't remember the subject. I don't
13 remember the subject of the first communication we
14 had.

15 Q Do you remember the first communication?

16 A No.

17 Q Do you remember any communications that you
18 had with her before you communicated with her at your
19 aunt's home in Cincinnati?

20 A Yes.

21 Q Can you briefly tell me what those
22 communications were.

1 A We talked about family. We talked about
2 dynamics of Indian country. We talked about our
3 history. We talked about our genealogy.

4 Q You knew her to be an activist?

5 A I did.

6 Q And had you ever collaborated with her on
7 any project relating to any activist issues or Native
8 American issues before this particular case?

9 MR. FERMAN: I'm going to object to the
10 form, but go ahead.

11 A Have I participated?

12 Q Did you ever collaborate with her, yeah,
13 work with her, on a project?

14 MR. FERMAN: Same objection.

15 BY MR. RASKOPF:

16 Q Of pertinence to Native Americans.

17 A No.

18 Q Were you ever asked; did she ever ask you
19 to do so?

20 A I don't remember.

21 Q Did you ever ask her to participate in
22 anything that you were working on concerning Native

1 American issues?

2 A Yes.

3 Q What was that?

4 A Regarding the fed recognition of the
5 Muscogee Nation of Florida, I asked Suzan to keep an
6 eye out on Capitol Hill.

7 Q And this was before this particular, you
8 had contacted her concerning this particular petition.

9 Right?

10 A This is before I contacted her, or she
11 contacted me.

12 Q Right. Concerning this case. Right?

13 A Correct.

14 Q And do you remember how long before this
15 was?

16 A I don't.

17 Q Were you matriculating at the University of
18 Oklahoma when you had the conversation with her asking
19 her to keep track of the goings on in Washington
20 concerning the Muscogee Nation issue?

21 A I was not.

22 Q Was it before or after you were

1 matriculating at Oklahoma?

2 A Before.

3 Q And after you asked her to help you on that
4 particular issue concerning the Muscogee Nation, did
5 you have any subsequent communications with her
6 concerning that issue?

7 A I did.

8 Q And how many or over what time period?

9 A Oh, I don't remember.

10 Q What were the substance of the
11 communications?

12 A Oh, I don't really remember that either.

13 Q You don't remember whether or not she got
14 back to you concerning what she understood to be the
15 goings on in Washington insofar as it related to the
16 Muscogee Nation issue?

17 A I don't remember.

18 Q Do you recall any other issues that you had
19 collaborated or connected to Suzan Harjo concerning,
20 prior to the filing of the petition for cancellation?

21 A Concerning?

22 Q Native American issues.

1 A We talk about indigenous language
2 revitalization. That's a Native American issue.

3 Q Agreed. And do you mean in general or with
4 respect to a particular focus?

5 A I don't remember.

6 Q Well, you've been active in attempting to,
7 I guess revitalize the understanding of Native
8 American language among Native Americans, have you
9 not?

10 A I don't understand what that means.

11 Q All right. I'll try it again.

12 A Okay.

13 Q Have you, you know, attempted in any way to
14 generate an effort to cause Native Americans to learn
15 ancient Native American languages?

16 A Yes.

17 Q And in what way have you done that?

18 A I speak on the importance of indigenous
19 language revitalization, and I teach my language.

20 Q Have you, for example, asked her to
21 participate in any speaking engagement or panels that
22 you might have had concerning indigenous language

1 revitalization?

2 A Yes.

3 Q Okay.

4 A I did not -- to clarify, though, I did not
5 ask her myself but recommended her to speak at our
6 Indigenous Language Summit here in Washington, D.C.,
7 three summers ago to honor the Navajo Code Talkers
8 that -- an organization that I sit on the board of
9 called Cultural Survival hosted the event, and I
10 recommended her name.

11 Q Do you recall any other occasions when you
12 have solicited her participation in any indigenous
13 language revitalization issues?

14 A I do not.

15 Q Now, do you remember the name of the person
16 who provided your contact information to Suzan Harjo?

17 A I do not.

18 Q You only remember the name of Kelley Berry?

19 A My friend, Kelley Berry.

20 Q A Kiowa person, you said?

21 A Kiowa.

22 Q Sorry about the pronunciation. K-I-A-W-A?

1 A K-I-O-W-A.

2 Q A Native American?

3 A Yes. An enrolled member of the Kiowa
4 Nation.

5 Q And is Kelley Berry an activist?

6 A He is not.

7 Q So do you know how he came to be in contact
8 with persons who were seeking to support Suzan Harjo's
9 effort to generate a petition for cancellation?

10 A I do.

11 Q Can you explain?

12 A The WINS program here in Washington D.C. at
13 American University.

14 Q Did you say WIND or WIN?

15 A Wins, W-I-N-S.

16 Q Sorry. W-I-N-S. Here at Washington
17 University --

18 A At American University, I believe it is.

19 Q Oh, AU? Okay.

20 What is the WINS program?

21 A It's an internship program for Native
22 peoples in higher education, and they intern usually

1 with legislators, or they might put them in a BIA
2 office or -- I don't remember all the positions, but
3 those are the ones I do know.

4 Q Okay.

5 A And he participated for -- I don't know the
6 number of years, but more than two years, I know, and
7 served as a counselor for the program as well.

8 Q So he was a counselor for the WINS program?

9 A He was a participant and a counselor.

10 Q Okay. He started as a participant --

11 A Correct.

12 Q -- and then became a counselor --

13 A Correct.

14 Q -- for the WINS program.

15 All right. And did you understand that he
16 was contacted by someone seeking to help Suzan Harjo
17 file this petition?

18 MR. FERMAN: Object to the form of the
19 question.

20 A Say it again now.

21 Q Well, so what did Kelley tell you about his
22 having sought you out for the reason behind it and the

1 people who were looking to do that?

2 A I'm still not understanding.

3 Q What did Kelley tell you about how it was
4 that he came to be asking you to help?

5 A We were having lunch one day at Souper
6 Salad, and he brought the subject up.

7 Q Okay. Souper Salad here?

8 A No; in Norman, Oklahoma.

9 Q Okay.

10 A At Noble Parkway.

11 Q Thank you. I won't ask you what you had.

12 A Salad and soup, probably.

13 Q All right. So what did he tell you about
14 what was -- you know, who had asked him to --

15 A Someone that he met at the program.

16 Q Okay. Someone he met at WINS?

17 A Uh-huh. I don't know if it was a
18 participant or a counselor or a guest speaker or what.
19 I don't know.

20 Q And by this time was he just in the program
21 as an intern, or had he already become a counselor?

22 A I don't remember that.

1 Q And so you gave your contact information to
2 him or to someone else?

3 A He had my contact information. He wanted
4 to have permission from me to give my contact
5 information to someone else.

6 Q And then as far as you understand, that
7 someone else gave it to Suzan Harjo?

8 A That someone else contacted me, and I spoke
9 very briefly with that person. It was a male. I
10 don't remember the name, but it was a male, who asked
11 permission to give my contact information to Suzan.

12 Q Was that male a lawyer?

13 A I don't know.

14 Q How did he identify himself?

15 A I don't remember. A friend of Kelley
16 Berry.

17 Q Okay. He probably gave you his name?

18 A I'm sure he gave his name.

19 Q You just don't remember?

20 A I just don't remember.

21 Q Okay.

22 A I never spoke with him again.

1 Q Did you have e-mail contact with him?

2 A No, I don't think so.

3 Q So it was a single phone call?

4 A Single phone call, yeah.

5 Q And then --

6 A I don't even know what role he ...

7 Q And then you got a call from Suzan Harjo?

8 A Correct.

9 Q In Cincinnati?

10 A Correct.

11 Q At your aunt's house?

12 A At my aunt's house, yes.

13 Q And now we're all set.

14 A Yes.

15 Q And what was the sum and substance of the
16 conversation you had with Suzan Harjo that day?

17 A How is your family doing ...

18 Q If you'd like, we could just limit it to
19 the issues relating to the petition.

20 A Okay. Well, we always ask --

21 Q You're free to go either way.

22 A We always ask how -- we inquire about each

1 other's well-being and health in our language.

2 (Speaking Native American language) this is a
3 protocol.

4 Q Okay. So that's standard fare?

5 A Correct.

6 Q But it's not really issue-related.

7 A Okay.

8 Q But that's okay. But why don't we just
9 assume from now on if we're talking about a phone
10 conversation, just to shorten it, then unless you
11 prefer not to, because it's your --

12 A Okay.

13 Q -- sworn testimony.

14 A Okay.

15 Q We'll assume that you had the traditional
16 introductory how is your family segment.

17 A Well, we don't want to assume. I may have
18 been out of balance that day and not followed the
19 protocol, which would have been disrespectful to my
20 elder.

21 Q Well, then that's okay then.

22 A Yeah. And --

1 Q Then you do it your way.

2 A And shame on me for that.

3 Q Absolutely. That's completely up to you.

4 A Yes. Okay.

5 Q All right.

6 A The issue was -- regarding the issue, our
7 conversation was an update on her case and inquiring
8 about my interest in this case.

9 Q When you say "an update on her case," you
10 were familiar with her case before this?

11 A I was.

12 Q And how did you learn about her case?

13 A I don't remember.

14 Q Could it have been in conversations with
15 her, with Suzan Harjo?

16 A It could have been, but I think I knew
17 about it from other sources.

18 Q And "other sources" being other persons or
19 reading or ...

20 A Other persons and reading.

21 Q When for the first time do you remember
22 being aware of the existence of the Suzan Harjo

1 petition for cancellation?

2 A Okay. I don't remember that. But I can
3 tell you a very vivid memory I have of ESPN doing a
4 special on Native peoples and sports, which was not
5 just about this issue. But I remember it having a lot
6 of content with this issue, to which Suzan was on
7 the -- on the video, as well as Senator Ben Nighthorse
8 Campbell. And it also dealt with some socio-economic,
9 socio-cultural issues in Indian country that affect --
10 that are in relationship to sports, and some --
11 perhaps some -- oh, Jim Thorpe was on it. That's all
12 I remember.

13 Q All right. And that was when for the first
14 time you learned that Suzan Harjo was attempting to
15 cancel the registration of the Washington Redskins?

16 A No, I didn't say that. I didn't say that.
17 I said I don't remember the first time. But I wanted
18 to share that time that I remember being conscious of
19 the case.

20 Q Well, you're clear that that is -- you were
21 conscious of the case at that time for sure?

22 A Yes.

1 Q You just don't remember --

2 A I don't know if that's the first time.

3 Q Right. There may have been a time prior to
4 that?

5 A Correct.

6 Q This is a particularly vivid --

7 A Correct.

8 Q -- memory that you have of it?

9 So you were watching ESPN. Where were you
10 watching it; do you remember that?

11 A No, I wasn't watching ESPN. I -- my mother
12 recorded it --

13 Q Okay.

14 A -- on a video.

15 Q All right.

16 A I was not there that day. We saw it
17 advertising on ESPN, that there was going to be this
18 special. Somebody told me about it, my mother, my
19 father, my brother, I don't know.

20 Q Okay.

21 A Somebody told me about it, and she recorded
22 it.

1 Q So you were living in Florida at the time?

2 A Correct.

3 Q And you saw the video in Florida?

4 A Correct.

5 Q Were you in high school?

6 A I don't remember.

7 Q Could it have been --

8 A I would say high school or middle school.

9 Q Okay. Middle school being Grades 4 to 8?

10 A No.

11 Q Somewhere in there?

12 A Six, seven, eight.

13 Q Okay. Six, seven, eight, or high school?

14 A Correct.

15 Q And other than having the vivid memory of
16 this, did you do anything about or concerning the case
17 at that time?

18 MR. FERMAN: Object to the form.

19 A That sounds like a two-part question. Did
20 I do anything or --

21 Q Concerning the case?

22 MR. RASKOPF: Withdrawn.

1 BY MR. RASKOPF:

2 Q Did you contact Suzan Harjo once you saw
3 this?

4 A I did not.

5 Q Did you contact anyone concerning the
6 special, the ESPN special?

7 A I did not. I showed it to a lot of people.

8 Q All right.

9 A I consider that doing something,
10 disseminating information.

11 Q So do I.

12 A Good.

13 Q What people did you show it to?

14 A I don't remember. A lot of my peers.

15 Q Buddies?

16 A Yes.

17 Q Buddies and such, but nothing -- there was
18 no official --

19 A Does buddies imply male only?

20 Q Of course not.

21 A Okay.

22 Q Not in the English language, anyway.

1 A Okay. Well, I think my understanding in
2 English colloquial talk that when you say "buddies"
3 and it's coming from a male, it's usually implied
4 other male peers. But that's just my conception. So
5 I just want to be clear.

6 Q Right.

7 A So like I'm sure you as an attorney like to
8 be a stickler for semantics; so do I, so ...

9 Q There can be more than one definition of
10 lots of words, as you know.

11 A Yes. So we want to make sure we're using
12 the appropriate definition.

13 Q Yes. Exactly.

14 A Great.

15 Q So that's it; you spoke to a couple of
16 buddies about it. Right?

17 MR. FERMAN: Objection to form.
18 Mischaracterizes testimony.

19 BY MR. RASKOPF:

20 Q You spoke to some friends of yours about
21 this. Right?

22 A I did.

1 Q But that was essentially that at the time.
2 Correct?

3 A What's "that"; the video?

4 Q You didn't do anything else concerning the
5 ESPN special you saw?

6 A Correct.

7 Q Right. Subsequent to that time but before
8 you spoke to Ms. Harjo in Cincinnati, did you have any
9 conversations with her concerning that case?

10 A I don't remember.

11 MR. FERMAN: Was your question that case
12 referring to the Harjo case? I just want to make sure
13 I understood the question. Because I don't know you
14 actually identified the case.

15 MR. RASKOPF: Yes, that is the case that we
16 were -- that was under discussion, the Harjo case.

17 MR. FERMAN: Okay.

18 MR. RASKOPF: His case had not been filed
19 at the time that --

20 MR. FERMAN: Right.

21 MR. RASKOPF: -- of the ESPN special. So I
22 thought it was understandable.

1 BY MR. RASKOPF:

2 Q You were born on December 31st, 1983.

3 Correct?

4 A Yes.

5 Q You turned 18 on December 31st, 2001?

6 A Yes.

7 Q And at the time you were attending Brevard
8 Community College?

9 A On December 31st, I believe that's winter
10 break.

11 Q All right.

12 A So I would not have been at the college.

13 Q You would not have physically been
14 attending the college?

15 A Correct.

16 Q You were a student at the college on
17 December 31st, 2001. Correct?

18 A Correct.

19 Q And what year were you; were you your first
20 year, second year?

21 A First year.

22 Q And what was your area of -- that was your

1 first year in community college?

2 A Correct.

3 Q And what was your area of concentration?

4 A General studies.

5 Q And you attended Brevard Community

6 College --

7 MR. RASKOPF: Withdrawn.

8 BY MR. RASKOPF:

9 Q You were a student -- well, let me ask you.
10 You acquired an Associate's Degree from Brevard
11 Community College?

12 A I did.

13 Q In May 2004?

14 A I did.

15 Q And you started in August 2001?

16 A I did.

17 Q So it took approximately -- well, a little
18 less than three years for you to acquire an
19 Associate's Degree?

20 A It did. I was actually doing dual
21 enrollment. I was still in high school when I began
22 college.

1 Q So when did you graduate high school?

2 A 2002.

3 Q All right. So what courses were you taking
4 in Brevard in first semester?

5 A In the first semester? I probably only
6 took one class. I don't remember.

7 Q Okay.

8 A Yeah.

9 Q So you became a full-time student at
10 Brevard after you officially graduated from high
11 school?

12 A Correct.

13 Q And I'm sorry, when did you graduate high
14 school?

15 A 2002.

16 Q Was it May of 2002?

17 A I don't remember.

18 Q Or thereabouts, early --

19 A May 2002 sounds right.

20 Q Did you play any sports in high school?

21 A I did not. I did not play any sports for
22 the high school.

1 Q You played team sports, but just not for
2 the high school?

3 A Correct. Yes.

4 Q Did you play football?

5 A I did not. Well, in the backyard.

6 Q Right. Were you a fan of any particular
7 NFL team when you were in high school?

8 A No.

9 Q You didn't follow the NFL?

10 A I did not follow the NFL. I did not
11 intentionally follow the NFL. I may have had some
12 knowledge of what was going on at certain times, like
13 playoffs or Superbowl.

14 Q Sure.

15 A Yeah.

16 Q You weren't a fan of maybe the Tampa Bay
17 Bucs?

18 A That's funny you say that. Because the
19 other day I -- my dad said something about a sports
20 team. And I said, Oh, I didn't even know that was a
21 team. And I think that was the one.

22 Q The Bucs?

1 A Yeah. Well, teams to choose, yeah.

2 Q Well, it's Florida, I figured you might --

3 A I was not a fan of the Tampa Bucs, no.

4 Q And you weren't a fan of the Miami
5 Dolphins?

6 A I was not.

7 MR. FERMAN: Did the Tampa Bay Buccaneers
8 exist in the 1990s? Okay.

9 BY MR. RASKOPF:

10 Q So you had heard of the Washington
11 Redskins?

12 A Oh, yes.

13 Q And when for the first time do you remember
14 having heard of the Washington Redskins?

15 A Oh, I don't remember. But as a child, I
16 can tell you that.

17 Q Right. And how do you remember it from
18 childhood that causes you to be, you know, somewhat,
19 you know -- engaged in some laughter?

20 A Okay. Because here again I have vivid
21 memories of my maternal parents, who are huge
22 Washington football fans, forcing me to watch that

1 game, those -- those teams or whatever, that game, you
2 know, that football game on TV with them. And I have
3 a very vivid memory of them playing the Buffalo Bills
4 in a Superbowl. Because I was pissed off for being
5 called in from outside playing to have to watch the
6 game.

7 But I remember eating chip and dip and
8 celery and carrots and those little beaney sausage
9 things.

10 Q Right.

11 A I liked those. They were good. And with
12 the barbecue sauce on them that cooks in the crock
13 pot. Yes.

14 Q Got it.

15 A But in that game, in that Superbowl
16 watching, the TV was over here and the couches were
17 like this. And my grandparents, grandfather sitting
18 in a chair here, and I don't remember where my
19 grandmother was.

20 But I do remember them saying, Look, your
21 people on TV, woo, woo, woo, woo, woo, and saying, Go
22 Redskins.

1 And that is probably my most memorable
2 football experience, with exception to my dad getting
3 pissed off when his team loses and sitting in the
4 chair and not being allowed to talk to him because
5 he'll cuss you out if his team loses. Yeah.

6 Q So your maternal parents were Washington
7 Redskins fans?

8 A Huge. Still are.

9 MR. FERMAN: Sorry. Did you say parents or
10 grandparents?

11 A Grandparents. My maternal -- you said my
12 maternal parents --

13 Q Your mother's parents.

14 A Yeah. So that's my maternal grandparents.

15 Q Are huge Washington Redskins fans to this
16 day?

17 A Correct.

18 Q They wear the merchandise?

19 A They don't now, but they did then.

20 Q When did they stop wearing the merchandise?

21 A I don't know. They probably stopped,
22 though, because they feel they're too old to wear it.

1 I don't know. I'm just saying that.

2 Q Right. Now, are they Native Americans?

3 A They are not.

4 Q Oh, okay. And does anyone else in your --
5 is anyone else in your family a Washington Redskins
6 fan?

7 MR. FERMAN: Object to the form, the word
8 "family."

9 Go ahead.

10 A Not to my knowledge. I don't think so, no.

11 Q Okay.

12 A I would say no. I would say the only two
13 persons I know are my grandparents. And for what
14 reason, I don't know, other than the possibility that
15 my grandfather worked at the Pentagon and they lived
16 there for a little while and perhaps acquired a liking
17 for the team. I don't know. I'm speculating. I
18 shouldn't probably speculate. But I don't want to put
19 words in my elders' mouth. It's disrespectful of me
20 to them.

21 Q So if I told you that the Buffalo Bills
22 Washington Redskins Superbowl was 1992, would that

1 refresh your recollection as to when you saw the
2 Redskins on TV?

3 A Well, if you say it's 1992, then I'm sure
4 that's when it was. Right?

5 Q Well, I hope I'm right. I think I am.

6 A Well, if I recall -- yeah, I mean, that
7 sounds right. I know where I was living, I know being
8 mad that I got called in. I remember being somehow
9 connected to those -- to that football team, so my
10 grandparents thought, and being made fun of, yeah.

11 Q You considered that you were being made fun
12 of by your maternal grandparents?

13 A Absolutely.

14 Q They were intending to make you feel bad?

15 A Does making fun of someone always intend on
16 making someone feel bad?

17 Q I just asked you that question separate and
18 apart from --

19 A Well, those are two different questions.
20 Were they making fun of me, yes. Were they doing it
21 to make me feel bad?

22 Q Yes. That's what I asked.

1 A I don't know.

2 Q You don't know one way or the other?

3 A I don't know.

4 Q You don't have a belief one way or the
5 other?

6 A Do I have a belief one way or the other?

7 I was probably -- let's see. If it was
8 1992, I was probably, like, 9 years old. I don't know
9 if I had a belief at that time, if they were making
10 fun of me. I know I got mad. But that was a
11 regular -- a regular occurrence. They pushed my
12 buttons, called me Kimosabe, that's the -- it's either
13 Kimosabe or Tonto, they called me that quite often, my
14 mother's family.

15 They seemed to think they can do that
16 because they're my grandparents, and that it's
17 acceptable. They wouldn't -- I wouldn't say that,
18 either. Because they have done that, too, to some of
19 my friends.

20 But I would like to think that they were
21 not trying to make me feel bad. But did it make me
22 feel bad? I don't remember. I remember getting mad.

1 I don't know if I felt bad or hurt, but I got mad.

2 Does anyone like to be made fun of? I don't think so.

3 Q And so this was about, you're thinking,
4 maybe 9 years old, 10 years old, somewhere in that
5 range?

6 A Well, what season -- I mean, what time of
7 year is the Superbowl?

8 Q It's in January, usually January, February.

9 A And I am -- turned -- if I'm born in '83,
10 so I must have just turned nine. Correct?

11 Q And so let's go back. We're now back at
12 Brevard Community College, and this is in May of 2003?

13 A Uh-huh.

14 Q How many years did you --

15 MR. RASKOPF: Withdrawn.

16 BY MR. RASKOPF:

17 Q May of 2002 I would like to ask you about.
18 That's when you sort of officially started Brevard
19 Community College?

20 A No, I would have started in the fall of
21 2002. Well, I don't remember, actually. I may have
22 taken summer classes. So that I don't know.

1 Q And so you matriculated at the community
2 college from that point forward for another -- for two
3 years?

4 A No. I was actually taking, like, 17 credit
5 hours a semester, serving on the student government,
6 and working 32 to 36 -- to 38 hours a week at Cracker
7 Barrel. And I ran out of money and support, and I
8 took off and dropped out. And then I finished the
9 last two courses I needed online.

10 Q And you finished the last two courses and
11 were able to graduate by May of 2004?

12 A That's correct.

13 Q All right. And so you were a student for a
14 period of time, right, before that? You finished
15 online courses, you worked at Cracker Barrel. Were
16 you also a librarian?

17 A No. That's not yet. That didn't happen
18 yet.

19 Q All right.

20 A That happened a couple of months later.

21 Q All right.

22 A Or maybe a month later, something. I don't

1 know. But it wasn't while I was in school. It was
2 right after.

3 Q Was that after --

4 A Oh, wait. No, no. You're right. Because
5 I'm thinking the time that I left school.

6 But during the time I was doing the online,
7 yes, that's correct. When I was doing the online
8 courses, I was working as a librarian at the
9 reservation school, that's correct. Afvcke. I'm
10 going to spell it to you in my language. A-F-V-C-K-E.

11 Q Okay. After graduation there was a period
12 of time between the time that you graduated from
13 Brevard and moved on to the University of Oklahoma, or
14 was it just a summer in between graduating and --

15 A It was just the summer. Because --

16 Q Did you have a summer job?

17 A Oh, I continued working on the reservation.

18 Q Okay. As a librarian or as a teacher or
19 both?

20 A Oh, yes, as a librarian. I did summer
21 school. That's correct. They had summer school. And
22 I taught -- I did the -- the library and stuff in

1 conjunction with teaching three gifted students in
2 summer school. Yeah.

3 Q And --

4 A Oh, wait. No, I just did the librarian.
5 The gifted students I think was the following summer.
6 Sorry. That's correct.

7 Q So you began attending University of
8 Oklahoma in August or September of 2004?

9 A Yes. I don't remember if it was August or
10 September, but one of those two months.

11 Q All right. But until you started attending
12 the University of Oklahoma, you were living in
13 Florida?

14 A Well, I was living within the sovereign
15 nation of the Seminole Tribe of Florida, yes. I lived
16 on reservation.

17 Q The confines of which are located in the
18 state of Florida?

19 A No, it's a sovereign territory.

20 Q Where --

21 A So Florida is around the sovereign
22 territory, yes.

1 Q Okay. So --

2 A But not within the confines of it.

3 Q Well, so if I drew a map of Florida, the
4 sovereign nation would be -- and I asked you to draw
5 the location of the sovereign nation, it would be
6 within the State of Florida. Right?

7 A Well, when you say "within," though, it
8 makes it sound as though the state has jurisdiction
9 over the sovereign nation.

10 Q I didn't --

11 A I'm just telling you that's how I interpret
12 it. So that's why I just restated that the state of
13 Florida is around the sovereign nation.

14 Q Geographically speaking. Right?

15 A Yes, it is.

16 Q That's a fact. Right?

17 A Yes. Because we perceive our communities,
18 of course, to be the center of the universe, so
19 everything else is around it. We're pretty
20 ethnocentric folks, indigenous people.

21 Q But it's fact, too. Right?

22 A What do you mean?

1 Q That the nation is within the state? That
2 geographically speaking, the nation is within the
3 state --

4 A If you call --

5 Q -- of Florida?

6 A If you call it the state of Florida. We
7 don't call it that. We call it Kvnfvskē. And it's --
8 Kvnfvskē is a part of our cosmology. It means a sharp
9 land. K-V-N-F-V-S-K-E. The term "Florida" is just a
10 colonial term.

11 (Short recess.)

12 BY MR. RASKOPF:

13 Q So when the petition for cancellation was
14 filed on August 11th, 2006, you were attending
15 University of Oklahoma, were you not?

16 A Correct.

17 Q And you remember that? I mean, like you
18 were a student when you filed, when this was filed.

19 Right?

20 A Yes.

21 Q All right. Do you remember what year you
22 were in?

1 A Yes. I was a senior.

2 Q All right. And you also had worked
3 various -- up to the time that this was filed, this
4 petition was filed on August 11th, 2006, you had
5 worked as a server at a malt shop?

6 A Yes.

7 Q And as a tutor/college prep counselor in
8 Norman public schools?

9 A Yes.

10 Q And as a language instructor and director
11 of youth programs for the Creek Indians?

12 A The Poarch Band of Creek Indians, yes.

13 Q And also as an instructor of the Muscogee
14 language through the University of Oklahoma,
15 Department of Anthropology?

16 A That was after I graduated.

17 Q That was after your graduation. Okay. But
18 the other jobs I listed were things that you were
19 doing --

20 A Yes.

21 Q -- up to that -- at least up to that, the
22 date when the petition was filed?

1 A Yes.

2 Q Okay. Have you seen the federal trademark
3 registrations that your petition seeks to cancel from
4 the Federal Register?

5 A Yes.

6 MR. FERMAN: You mean the marks, or the
7 actual registration?

8 BY MR. RASKOPF:

9 Q The actual registrations. That is the
10 certificates for registration for the six marks you
11 are seeking to cancel.

12 A I don't know. Sorry, I misunderstood that.

13 Q I guess it wasn't a good question. Thank
14 you.

15 I'm going to show you them, or what --
16 you're going to have to tell me whether these are
17 those. But I'm going to show you Gover-3 through 8.
18 They were already marked. Tell me whether you've seen
19 these before.

20 MR. FERMAN: Sorry to do this, Bob. Are
21 you talking about the entire document or the image
22 that's included within the document? It appears to me

1 that the marks are actually contained within the
2 document. And that's why I'm finding it --

3 MR. RASKOPF: I asked him about the
4 registration, not about the marks. I'll do that
5 separately.

6 MR. FERMAN: Okay.

7 BY MR. RASKOPF:

8 Q Have you seen these specific documents
9 before?

10 A I have not.

11 Q All right. So no one has brought them to
12 your attention?

13 A I don't know. I don't recall.

14 Q You have no recollection of ever having
15 seen these certificates before?

16 A I don't.

17 Q All right.

18 A Do you want these?

19 Q Not yet.

20 A Okay.

21 Q Do you recognize that they all bear the
22 designation Redskins or some -- a word which

1 incorporates the word "redskin"?

2 A I do.

3 Q And do you see that one of them, the Number
4 4, contains the words "Washington Redskins"?

5 A I do.

6 Q And Number 5 contains the words "Washington
7 Redskins"?

8 A Unfortunately, yes.

9 Q What's wrong about -- why do you say
10 "unfortunately" insofar as it relates to Number 5?

11 A I'm just adding an extra word before my
12 yes. What do you mean?

13 MR. RASKOPF: Would you read the question
14 back.

15 (The reporter read the record as follows:

16 "QUESTION: What's wrong about -- why do
17 you say 'unfortunately' insofar as it relates to
18 Number 5?")

19 A Just because I don't like looking at it.

20 Q Okay.

21 A Is that -- does that answer appropriately,
22 or do you want ...

1 Q You control your answer, not me.

2 A Okay.

3 Q Are you familiar at all with the process by
4 which trademarks are registered in the United States
5 Patent and Trademark Office?

6 A I am not.

7 Q No one has brought that to your attention?

8 MR. FERMAN: I will object and instruct
9 you, to the extent you've discussed any of these
10 matters with lawyers, don't disclose any of those
11 conversations. But subject to that, you can answer
12 the question.

13 MR. RASKOPF: Well, the question called for
14 a yes-or-no answer.

15 MR. FERMAN: I understand that.

16 A Yes. I mean, if you want me to be able to
17 articulate to you the entire process, I cannot do
18 that, though.

19 Q What do you understand the process to be?

20 A I don't know.

21 Q Is there anything about the process that
22 you are -- believe you are aware of?

1 A Yes.

2 Q What are you aware of concerning the
3 process?

4 A I don't know.

5 Q You don't know whether trademark
6 applications are examined by trademark examiners or
7 not?

8 A I don't know.

9 Q Or that trademark registrations are issued
10 for specific products or services?

11 A I don't know.

12 Q Is there any reason why you didn't file
13 your own case against these trademark registrations
14 before August of 2006?

15 A Is there any reason that I didn't?

16 Q Yeah.

17 A I didn't know how. I didn't -- I didn't
18 know the process of that.

19 Q You thought that would be a good thing, to
20 get rid of these marks?

21 A Yes.

22 Q But you didn't try to figure out if there

1 was a way to do that --

2 MR. FERMAN: Objection.

3 BY MR. RASKOPF:

4 Q -- until you filed the petition. Right?

5 A Well, what I can tell you is that if you
6 live in Indian country and you know the overwhelming
7 abundance of injustice that surrounds our people,
8 there's this thing as picking your battles, you know,
9 that we're faced with such a dilemma. And when you
10 have this person counting on you for that, this group
11 counting on you for this, and et cetera, especially at
12 the local level, it's very -- it's very stressful.
13 And at that point in my life I would not have known
14 the process or even feel equipped with the tools to --
15 to engage in such a major endeavor.

16 Q And it wasn't a top priority of yours,
17 given all the other things you just mentioned. Right?

18 A Well, negative stereotype imagery,
19 combatting that and educating people about it was a
20 definite priority of mine, yes.

21 Q But you didn't act on it until -- act on
22 that priority until that occurred. Right?

1 MR. FERMAN: Objection.

2 BY MR. RASKOPF:

3 Q Until the petition was filed; correct?

4 MR. FERMAN: Object to the form.

5 A I did act on it. I talk about it all the
6 time. That's acting on it. Right? I believe it is.

7 Q Well, I asked acted on cancelling a
8 petition, cancelling registrations, as opposed to just
9 talking about it.

10 MR. FERMAN: Object to the
11 characterization.

12 You may answer.

13 A I did not act on cancelling the trademark.

14 Q Okay. Are you familiar the Seminole
15 Tribune?

16 A I am.

17 Q Do you read it?

18 A I don't.

19 Q Why not?

20 A There are more interesting things to read.

21 Q You have read it from time to time?

22 A I have read it.

1 Q Do you understand it to be a reputable
2 publication?

3 A No. Hell no.

4 Q Why not?

5 A Because I know who publishes it.

6 Q Who publishes it?

7 A Persons that I'm acquainted with.

8 Q Are they Native Americans?

9 A Some are.

10 Q And you were laughing when you answered --

11 A I am.

12 Q -- when you said "hell no."

13 A Yes.

14 Q They are not reputable. Were you joking
15 when you did that, or were you serious when you did
16 that, or is it a combination of both?

17 A I'm serious.

18 Q Okay. Have you ever been depicted the
19 Seminole Tribune?

20 A Yes, I have.

21 Q And on how many occasions?

22 A Oh, I don't know.

1 Q Can you recall the occasion that you were
2 depicted?

3 A I can recall one occasion that I have been
4 depicted. I can recall one other occasion that my
5 name has been in it.

6 Q Do you know whether the Seminole Tribune
7 tries to generate information relating to -- of
8 interest to Native Americans?

9 MR. FERMAN: Object to the form.

10 You can answer, if you understand.

11 A I don't understand it, actually. Can you
12 say it again?

13 Q Well, Native Americans, does the Seminole
14 Tribune frequently publish concerning issues of
15 interest to Native Americans?

16 A The term "Native Americans" you're using is
17 pretty broad. I think that the Seminole Tribune tries
18 to publish articles of interest to some tribal members
19 within the Seminole Tribe of Florida.

20 Q Okay. Have you ever heard of Cindy and
21 Bobby Osceola?

22 A Yes.

1 Q And who do you understand them to be?

2 A I don't know. I know who -- I know the
3 names. I cannot place a face to the name.

4 Q Okay.

5 A The name Osceola is like the name Smith
6 down there.

7 Q Is there a tribal chief who had that name?

8 A No.

9 Q Okay.

10 A There is a war strategist named Vsse Yvholv
11 that had the name.

12 Q A war strategist. Okay.

13 A Only the white people call him the chief.

14 Q I'm going to ask you to look at a document.
15 It's going to be marked as Briggs-Cloud-3, the exhibit
16 number.

17 (Briggs-Cloud Exhibit 3 marked for
18 identification, to be attached to the transcript.)

19 BY MR. RASKOPF:

20 Q Do you remember seeing Briggs-Cloud-3
21 before?

22 A Yes, but not the actual paper itself, just

1 a -- someone took a camera photo of it and e-mailed
2 it -- or text messaged it to me.

3 Q Okay. So you didn't see the actual
4 Seminole Tribune --

5 A Correct.

6 Q -- from that day?

7 A Right.

8 Q You didn't ask for a copy or --

9 A No.

10 Q But you had the photograph?

11 A Oh, I had it. I don't have it anymore.

12 Q You received the photograph?

13 A Yeah. Yeah. I don't care about this
14 anyway.

15 Q And underneath the photograph it says,
16 "Group Photo at Harvard Yard with Marcus Briggs-Cloud
17 bottom center, a South Florida Native"?

18 A Correct.

19 Q Did you read the story that was connected
20 to your photograph?

21 A No.

22 Q About the tribal youth toured northeast

1 colleges?

2 A No.

3 Q You didn't know that you were interviewed
4 for the article?

5 A I knew I was interviewed. I didn't know it
6 was for an article.

7 Q Did you see the article in which you were
8 quoted by the Seminole Tribune?

9 A No. Where is it?

10 Q Well, I guess if we turn to Page 2A.

11 A Oh.

12 Q Because you're on the front page -- your
13 photograph is on the front page of the Seminole
14 Tribune.

15 A Yes, I see that.

16 Q And right underneath that is the -- you're
17 not Seminole, are you?

18 A I am.

19 Q Oh, you are. Okay.

20 A The term "Seminole" comes from the Spanish
21 word "Cimarron." When our people were Muscogee
22 people, the name Muscogee is encompassing of all

1 villages of our Creek People. They call us Creeks
2 because we live along rivers and creeks. But we have
3 different villages (speaking Native American
4 language). We have a lot of different villages. And
5 these villages are -- became part of this rubric of
6 nationalism that we now call the Muscogee Nation or
7 the Creek Confederacy.

8 So when many of our ancestors were escaping
9 Indian removal policies prior to 1830, they ran into
10 what is colonially known as Florida, but at that time
11 was colonial Spanish territory primarily populated by
12 Spanish-speaking persons.

13 And they called our people Cimarron, which
14 means wild. And we don't have an R in our language to
15 pronounce Cimarron. So they said cimallone
16 (phonetic). And cimallone evolved to Seminole. And
17 Seminole evolved to -- when the Euro Americans moved
18 in, they called us Seminoles.

19 So if you ask me if I am Seminole, at one
20 time, yes, that term was imposed on my people. And I
21 am connected to those people, but I do not identify as
22 a Seminole.

1 Q Fine. So now do you want to turn to the
2 page where you're quoted?

3 A Okay.

4 Q It's the second paragraph, second column of
5 the story.

6 A Uh-huh.

7 Q First full paragraph.

8 A "The Seminole tribe has a great opportunity
9 to send these young ambassadors to western
10 institutions of higher education to acquire that
11 knowledge, bring it home, and implement it into our
12 communities."

13 Q "Briggs-Cloud said"?

14 A Correct.

15 Q Do you remember giving them a quote to that
16 effect?

17 A Yes.

18 Q So it's, as far as you can tell, it's
19 accurately conveyed your conversation with a reporter?

20 A It may be a word or two or three off. I
21 don't know.

22 Q But the substance of it is accurate?

1 A Yes.

2 Q Would you turn to Page 1C of the same.

3 It's been flagged.

4 Do you see that little blue flag?

5 A Oh.

6 Q If you turn there. You went past it.

7 A Oh, sorry. Okay. Yeah.

8 Q And you see the article stating -- the
9 headline, Son, Daughter Celebrated in Memorial
10 Tourneys?

11 A Yes.

12 Q Do you see that?

13 A Yes.

14 Q And do you agree with me that the first
15 paragraph of that article states, "Old and new
16 traditions combined on the basketball court in the
17 memory of tribal citizens Cindy and Bobby Osceola in
18 the seventh and inaugural editions of the Cindy
19 Osceola Legends Memorial and Bobby C. Osceola Memorial
20 Basketball Tournaments"?

21 A It does say that.

22 Q And the second paragraph says, "The

1 Seminole gym hosted the two all-Indian events running
2 April 8 to 10, with participants from around the
3 reservation and out of state competing for bragging
4 rights, cash, and trophies"?

5 A It does say that.

6 Q All right. Now, if you move to the third
7 column of the story, the fourth paragraph down,
8 beginning with the words, "The women's."

9 Do you see it?

10 It says, "The women's championship was
11 decided in a three-game series between the Lady
12 Redskins" and the Lady Ball -- "and Lady Ballers."

13 Do you see that?

14 A It does say that, yes.

15 Q Now, the fifth paragraph says, "The Lady
16 Redskins would go on a 12-to-6 run to start the second
17 half."

18 A It does say that.

19 Q So have you ever heard groups of people
20 informally calling themselves Redskins for the name of
21 a team?

22 A I don't remember.

1 Q Well, have you ever heard of a group of
2 people getting together, a group of Native Americans
3 playing basketball, calling themselves the Redskins?

4 A No.

5 Q Not ever?

6 A No.

7 Q All right. Are you familiar with any high
8 school that -- a Native American high school that has
9 a nickname Redskins?

10 A A Native American high school or a high
11 school with Native Americans in it?

12 Q Native American.

13 A No.

14 Q Well, a Native American high school --

15 MR. RASKOPF: Withdrawn.

16 BY MR. RASKOPF:

17 Q A high school that has primarily, if not
18 exclusively, Native Americans who call -- whose
19 nickname is the Redskins?

20 A No.

21 Q Assuming that this is correct, that a group
22 of Native Americans got themselves together to play a

1 women's championship, does it bother you that one of
2 the teams decided to call themselves the Lady
3 Redskins?

4 A Yes.

5 MR. FERMAN: I'll object to the form.

6 You can answer the question.

7 A Yes.

8 Q Why?

9 A Because obviously I'm a plaintiff on this
10 case to cancel the trademark, the Washington Redskins,
11 and here's some indigenous peoples themselves that are
12 invoking the term and using it. So that would make
13 sense that it would upset me. Correct, yes.

14 Q And the term "Redskins" is invoked on
15 occasion by indigenous peoples, is it not?

16 MR. FERMAN: Object to the form.

17 Go ahead.

18 A It is.

19 Q And would you tend to think that the people
20 who -- on the team who call themselves the Lady
21 Redskins were bothered by calling themselves the Lady
22 Redskins?

1 MR. FERMAN: Object to the form. Calls for
2 speculation, lack of foundation.

3 A Yeah, I don't know.

4 Q You wouldn't know one way or the other?

5 MR. FERMAN: Objection. Asked and
6 answered.

7 A I don't even know who is on that team.

8 Q These are all-Indian events. Have you ever
9 heard of these all-Indian events before?

10 A Yes.

11 Q And what do you understand an all-Indian
12 event to be?

13 A An all-Indian event in this context
14 actually only means that -- I don't -- let me see
15 which tournament this is.

16 Most all-Indian events that state -- that
17 use that terminology require that a CDIB, a
18 certificate degree of Indian blood, be -- or some
19 other proof of Indian descent be submitted in order to
20 participate.

21 Q Okay.

22 A Now, does that -- oh, let me clarify,

1 though. That does not mean in my book that all those
2 persons are Indian.

3 Q Right. Would it give you some comfort that
4 some of these people would probably be Indian, given
5 that they are playing in an all-Indian tournament?

6 A Well, I don't know who was playing to make
7 that determination. Everyone has their own definition
8 of what it means to be an Indian.

9 Q Okay. What's your definition of what it
10 means to be an Indian?

11 A I don't have a crystallized definition of
12 what it means to be an Indian. I would say I am
13 sensitive to cultural historical realities. At one
14 time in my life I would say that -- that you had to
15 speak your language to be an Indian.

16 I would not say that now, because -- I do
17 not say that now, because I am more conscious of
18 historical realities, particularly in the East and the
19 Northeast, where people were knocked down to very few
20 in population among their people through genocide,
21 through disease.

22 I'm very sensitive to the boarding school

1 issue, where indigenous people have been abducted from
2 their homes and beaten in these schools when they
3 spoke their language.

4 I am sensitive to the 90 percent of
5 indigenous languages are expected to be extinct within
6 the next ten years. So language is not a criteria.

7 Bloodline at one time I would have said is
8 a criteria as well, that you have to have the
9 bloodline to be a Native person, to be an indigenous
10 person. But it is also the tradition of my own people
11 to adopt others into our nation.

12 At one time I would have said that
13 community recognition is a requirement to be a Native
14 person. But there are people that I consider to be
15 staunch indigenous persons that the community despises
16 and would not acknowledge that person as a part of
17 them.

18 I would have said at one time that you had
19 to have a clan to be an indigenous person, to which I
20 do not, which would exclude me. So I don't subscribe
21 to that anymore, either.

22 I would have said at one time that you had

1 to meet a minimum blood quantum requirement to be an
2 Indian person. I no longer think that.

3 So I have grappled with a lot of issues
4 around indigenous identity that's no cut-and-dry
5 definition.

6 Q Okay. Did there come a time when you
7 participated in a letter-writing campaign to the
8 Washington Redskins?

9 A Was there a time?

10 Q Yeah.

11 A Yes.

12 Q And can you describe the circumstances of
13 that?

14 A Yes. I was on the United Methodist student
15 movement committee, steering committee. I was first
16 approached to be on that committee in 2006, I believe,
17 but I'm unsure of that. It was in Tacoma or Seattle,
18 somewhere up there, at Puget Sound University in Puget
19 Sound.

20 We had a student forum there. And there
21 was a two-hour lecture on indigenous social justice.
22 The speaker did not show up. We were waiting for the

1 speaker to show up. And somebody said, there's some
2 Indians in the back, let them talk.

3 And then my two colleagues said, He's our
4 spokesperson. And the current president -- current
5 steering committee member came to me and said,
6 would -- she came and knelt down next to me and she
7 said, Would you mind speaking until our -- until our
8 speaker shows up. I said, Sure. So I went down and
9 the speaker never showed up, and I gave the two-hour
10 lecture myself.

11 After that, in the afternoon, a guy
12 approached me and said, We have nominated you to the
13 steering committee. Would you -- would you accept?
14 And I said, Well, let me think about it.

15 And I thought about it. And the entire
16 committee voted on me. And I found out -- I don't
17 remember how long afterwards, months or whatever, that
18 next year's forum would be held at American University
19 in Washington, D.C.

20 The United Methodist church has a
21 resolution to which we cannot hold official United
22 Methodist events in cities where there are Native

1 mascots. That's why we've never met in -- we have not
2 met in Atlanta for a while.

3 So I was pissed that we were having this
4 next student forum in the town where the Washington
5 football mascot is all over the freakin city. And I
6 protested that in our first meeting. And they said to
7 me -- did you want me to keep talking or wait?

8 Q Absolutely. I'm listening.

9 A And they said to me that everything was in
10 order, that they had gone to so much trouble to -- to
11 have it at American University because it's a former
12 United Methodist school but no longer affiliated, or
13 just loosely affiliated in some form, I don't know the
14 ins and outs of that.

15 But I said, Okay. If that's going to be
16 the case, then we need to have some kind of
17 educational awareness on this issue. And so we
18 organized -- the theme of that year was social
19 justice.

20 Q This is 2008. Right?

21 A Yes, 2008.

22 Q Okay.

1 A So I must have been elected 2007, and the
2 forum was in 2008. So thank you. Because that was my
3 first year, you know, on the forum. So the year prior
4 to that was my first year attending -- I mean, first
5 year on the committee, and the year prior to that was
6 my first year attending.

7 So we organized -- I don't remember how
8 many, perhaps nine, perhaps 12 what we called
9 immersion experiences. Some people went to see the
10 gentrification happening here in the city. Some
11 people went to -- among the homeless community. Some
12 people went to -- I don't remember all of the -- some
13 were like -- I want to say, was a -- was a women's
14 shelter. I'm not positive of those. But I remember
15 that being in the discussion. But, anyway, there were
16 several of them.

17 And one of the experiences, the immersion
18 experiences, was the theme of racism and mascots. And
19 everyone got to choose what event they wanted to sign
20 up for.

21 Those who came from various seminaries,
22 though they had their separate tract, were not

1 formally a part of our forum, were told that they were
2 coming to the racism and mascots event held at the
3 National Museum of the American Indian.

4 And that was orchestrated by Susanne
5 Ware-Diaz, who is the head of the United Methodist
6 Coalition on Race and Religion.

7 Q So you delivered a presentation at that --

8 A I did.

9 Q -- particular forum?

10 A I delivered --

11 Q On race --

12 A -- several presentations.

13 Q I'm just asking about the one, the one you
14 referred to on racism and mascots, the one you
15 delivered?

16 A At the National Museum of the American
17 Indian.

18 Q Right.

19 A I did deliver a presentation.

20 Q And did you at that -- how many people
21 attended the presentation?

22 A I don't remember.

1 Q Was it more than 50?

2 A Yes.

3 Q Less than a thousand?

4 A Yes.

5 Q A couple hundred maybe?

6 A I don't remember.

7 Q Was Suzan Harjo there?

8 A Yes.

9 Q Did she deliver a presentation as well?

10 A Yes.

11 Q Did she precede your presentation? Did
12 hers precede or succeed your presentation?

13 A Yeah, she would have followed me. I
14 never -- I never -- I never -- yeah, that's right.
15 She did follow me. Yeah.

16 I never follow -- I mean, I never go in --
17 I don't volunteer myself to go before or after
18 somebody. I let the elder tell me when they want to
19 go.

20 Q Okay.

21 A I never overstep my boundaries in that way.

22 Q That's good.

1 Did you prepare a letter for this, for
2 anyone who attended that forum to sign it to send to
3 the -- Mr. Snyder of the Redskins?

4 A I did not prepare that letter. Delyn Celec
5 prepared that letter.

6 Q Okay. But the letter, there was such a
7 letter prepared. Right?

8 A Yes.

9 Q And was that letter disseminated at this
10 presentation?

11 A No. The letter was flashed on the screen
12 during worship service in the main church. So it was
13 the entire forum that was exposed to the letter. It
14 was flashed up on the screen, to which students had
15 the option of writing and placing it in the offertory
16 basket, following a student's testimony about her
17 experience at MacMurray College with Native mascots.

18 Q All right. So there was an offertory
19 basket that people could maybe just write down the
20 text that was the idea that was on the screen?

21 A Yes. They had the option to insert
22 whatever they wanted to.

1 Q Or insert whatever they wanted?

2 A Correct. To draft their own, use that as a
3 template. After writing that, adding something else.
4 It was up to them.

5 Q Sure. But this was the template?

6 A What's that?

7 Q That was the template?

8 A Yes. Uh-huh.

9 Q That was the suggested text?

10 A Right. Yes.

11 Q And how many people attended the forum?

12 A I don't know.

13 Q Several hundred?

14 A Yes.

15 Q How many of these people were Native
16 Americans?

17 A I don't know. I don't remember.

18 Q You couldn't say one way or the other how
19 many of the people who attended this program were
20 Native Americans?

21 MR. FERMAN: Objection. Asked and
22 answered.

1 BY MR. RASKOPF:

2 Q I just want to be sure I understand.

3 A I don't know.

4 Q Do you know whether any of the people who
5 attended this were Native Americans?

6 A Yes.

7 Q Which ones?

8 A I don't -- I don't remember.

9 Q Do you remember a specific person who you
10 understand to be a Native American who was present at
11 the forum?

12 A Yes.

13 MR. FERMAN: I'm sorry.

14 BY MR. RASKOPF:

15 Q Okay. And what --

16 MR. FERMAN: Other than Briggs-Cloud?

17 MR. RASKOPF: Yes, of course. And Ms.
18 Harjo.

19 BY MR. RASKOPF:

20 Q I'm not talking about the presenters; I'm
21 talking about the audience.

22 A Yes. I will name one name, Chief Kenneth

1 Adams of the Mattaponi Nation.

2 Q And any others you could identify as Native
3 Americans?

4 A Yeah; I just don't know their names.

5 Q How many of them?

6 A I don't remember.

7 Q More than two?

8 A Plus, like I told you, I'm not the Indian
9 identity police. I don't know who there was Native
10 and who wasn't, so ...

11 Q Did anyone come up to you and identify
12 themselves as a Native American, notwithstanding that
13 you didn't go out of your way to --

14 A Dude, people come up to me every day and
15 tell me their great-grandma was a Cherokee princess.
16 I'm sure you have some great-grandma or something that
17 was -- I don't know. But I hear this every day, that
18 people are part Indian. But I'm not the identity
19 police to say, Yes, you are an Indian, or, No, you are
20 not because of this, this, this, and this.

21 Do you see what I'm saying?

22 Q Yes. But I'm asking you if anyone came up

1 to you and told you --

2 A Oh, yes.

3 Q -- that they were Native Americans?

4 A Yes.

5 Q How many?

6 A I don't remember.

7 Q A few?

8 A I don't remember. I could probably tell
9 you a lot came up to me. I don't remember.

10 Q Well, okay. You just don't remember.

11 A I don't compute that to memory very much.

12 Q So letters based on or having some
13 connection to the letter that was drafted by
14 Ms. Celec, as you testified, were placed in the
15 offertory basket and then delivered by you or someone
16 else to the Redskins?

17 A I believe -- I'm not sure, but I think that
18 Meg Lassiat delivered them.

19 Q Who is Meg Lassiat?

20 A Meg Lassiat is the -- I don't even know her
21 official position anymore. She worked for GBHEM in
22 the United Methodist Church. And I'm not even sure if

1 she is the one that delivered them. But the last I
2 can remember, I believe she was the one that was to
3 deliver them. Either she, or let me name one other
4 name, Gerlinda Roland. And we call her Gerti.

5 Q Do you or -- do you have a copy of the
6 template that you --

7 A I do not. I don't think I do.

8 Q Did you sign a letter?

9 A I did.

10 Q And you didn't keep a copy of it?

11 A I did not.

12 Q And your testimony is you didn't draft that
13 letter?

14 MR. FERMAN: Objection. Asked and
15 answered.

16 A I did not draft the letter. I may have
17 made modifications, but I don't remember.

18 Q All right. So let me show you Briggs-Cloud
19 356.

20 A Do I have that, or you are going to --

21 Q It's going to be shown to you in just a
22 minute.

1 A Okay.

2 Q But since it says BRIGGS-CLOUD 356 at the
3 bottom, that means it came out of your files.

4 (Briggs-Cloud Exhibit 4 marked for
5 identification, to be attached to the transcript.)

6 BY MR. RASKOPF:

7 Q Can you identify Exhibit 4, for the record?

8 A Yes, I can identify it.

9 Q And it's an e-mail chain. Right?

10 A Yes.

11 Q And the first one in the chain is dated
12 April 1st, 2008, 4:40 p.m., and it was sent to you
13 from Rachel -- long last name.

14 A Birkhahn-Rommelfanger.

15 Q Now, have you identified her yet?

16 Do you know who she is?

17 A Yes, I do.

18 Q Okay.

19 A I talked to her the other day.

20 Q What's her title?

21 A I don't know her title now, but she at that
22 time was the chair of the steering committee.

1 Q Okay. And she says to you, quote, "I know
2 Meg talked with you about action for the larger group
3 to take against the Washington football team, and I
4 think we agreed to do letter writing."

5 Do you see that?

6 A Yes, I do.

7 Q Then she writes, "Were you going to write a
8 sample letter for that?"

9 Do you see that?

10 A Yes.

11 Q And then you responded to the full e-mail
12 on the same day, a little more than two hours later.

13 A Uh-huh.

14 Q Saying, "Thanks, Rachel. I've been working
15 with Laura Benson some more to compile a list of
16 resources we're going to be distributing at the forum
17 that student can take further action. I will draft"
18 the letter -- "this letter and get it to Gerti."

19 Now, "this letter" in your e-mail refers to
20 the letter that you just described that was on the --

21 A Screen.

22 Q -- screen --

1 A Yes.

2 Q -- at the forum?

3 A Yes.

4 Q All right. So does this refresh your
5 recollection as to the fact that you actually drafted
6 that letter, or did something else happen?

7 A Yes, something else happened. I ran out of
8 time and Delyn ended up drafting it and sent it to me
9 and said is this okay, because the deadline was fast
10 approaching.

11 Q You did not take responsibility for
12 delivering the group of letters to the Redskins.

13 Right?

14 A Correct.

15 MR. FERMAN: Object to the form.

16 BY MR. RASKOPF:

17 Q Someone else did?

18 A Correct.

19 Q Right. Okay.

20 A Per their request.

21 Q Right.

22 A Because they told me that I was not able to

1 because of my position on the -- on the steering
2 committee and all the responsibilities we had to do,
3 it would be a load off of my back to do that.

4 Q The letter that was on the screen was
5 edited by you?

6 A Yes.

7 Q You certainly reviewed it before it found
8 its way onto the screen?

9 A Yes.

10 Q And it was acceptable to you?

11 A Yes.

12 Q All right. Have you ever personally
13 contacted the Washington Redskins about your concerns
14 over their use of the word "Redskins" in Washington
15 Redskins?

16 MR. FERMAN: Object to the form.

17 Go ahead.

18 A Other than that letter, no.

19 Q Right. Did you change the form letter for
20 your own personal letter, or did you just sign it as
21 it appeared on the screen?

22 A I don't remember. That was like 2008?

1 Q Right.

2 A Yeah, I don't remember.

3 Q In your Interrogatory Number 9,
4 Interrogatory Response Number 9, which is on Page 13.
5 Right in the middle there of the second paragraph it
6 says, "About 450 letters were sent asking the team to
7 change its name"?

8 A Uh-huh.

9 Q Where did you get the 450 from?

10 A I don't remember. I may have contacted
11 Gerti or Meg or somebody and asked them.

12 Q Okay. So they told you what the total was
13 that they thought the total was?

14 A I think. I don't remember --

15 Q You don't remember?

16 A -- but I think that's what -- the avenue
17 that I took.

18 Q It didn't have anything to do with the
19 total attendant -- number of attendees at the forum?

20 A No. We had more attendees, I think, than
21 that. Not everyone wrote a letter.

22 Q All right. I'm going to show you an

1 article that is available at the United Methodist
2 portal --

3 A Okay.

4 Q -- and it was produced out of your files.

5 A Okay.

6 Q Bates Number 011.

7 (Briggs-Cloud Exhibit 5 marked for
8 identification, to be attached to the transcript.)

9 BY MR. RASKOPF:

10 Q Have you ever seen this article before?

11 A Yes. This is an article that I'm misquoted
12 in.

13 Q You're misquoted in the article?

14 A Yeah.

15 Q All right. Well, look at the first
16 paragraph of the article. It says, "Some 438
17 students, campus ministers, and young adult
18 seminarians scattered across the nation's capitol
19 during the Student Forum 2008 to learn how they could
20 use their voices to fight for just public policies."

21 Do you see that?

22 A Yes.

1 Q And you remember reading that?

2 A Yes.

3 Q And this says there were "438 students,
4 ministers and young adult seminarians."

5 A Yeah.

6 Q In total who attended the forum.

7 A Yes.

8 Q And do you still believe that 450 letters
9 were sent to the Washington Redskins per your
10 testimony in response to Interrogatory Number 9?

11 A I believe whatever I was -- whatever number
12 I was told. I mean, when I inquired about the number.

13 Q So you didn't count the letters?

14 A Correct, I did not count them. Right.

15 Q And if you go to the next page.

16 A Uh-huh.

17 Q The last paragraph. It says, "The students
18 took action by writing nearly 200 letters to football
19 team owner Dan Snyder."

20 A Uh-huh.

21 Q Do you know where that came from?

22 A I don't.

1 This woman that writes the article here,
2 Vicki Brown, she has misquoted me three different
3 times. And I don't really -- on the last time she
4 misquote -- I don't talk to her anymore about writing
5 articles. Because the last time I told her four times
6 corrected it, and she still didn't get it right on the
7 final copy. So I don't know where she got her
8 numbers, but ...

9 Q And you don't know where the other guys got
10 their numbers to give you --

11 A Meg and Gerti, yes, I don't know where they
12 got their numbers, correct.

13 Q -- the 450?

14 MR. FERMAN: Just let him finish his
15 question.

16 MR. RASKOPF: I got it.

17 MR. FERMAN: Just for this lady over here.
18 She's trying to get it down.

19 A What I can tell you, though, is I remember
20 that night in the worship service that most people's
21 heads were bowed writing papers, writing letters.

22 MR. RASKOPF: Take a five-minute break.

1 I'm going to try to wrap this up.

2 (Short recess.)

3 BY MR. RASKOPF:

4 Q I'm going to show you Gover-17 for
5 identification and ask you whether you've seen it
6 before.

7 A Yes.

8 Q What do you understand it to be?

9 A What do I understand it to be?

10 Q Yeah. What is it?

11 A It's what the Florida State University uses
12 for their mascot.

13 Q And it's licensed by the Seminole Tribe; is
14 it not?

15 A It is licensed by the tribal council, not
16 the Seminole tribe.

17 Q And what's the -- well, so the tribal
18 council is -- has a relationship to the tribe, doesn't
19 it?

20 A Correct.

21 Q And so members of the council are from the
22 Seminole Tribe. Right?

1 A Right.

2 Q And are they elected?

3 A They are elected.

4 Q And they are the ones who licensed it?

5 A Yes.

6 Q On behalf of the Seminole Tribe?

7 A Perhaps. I don't know. I wouldn't say
8 that. On behalf of some members, yes.

9 Q Do you consider the tribal council of the
10 Seminoles to have authority to issue licenses for the
11 logo?

12 A No.

13 Q Okay.

14 A Absolutely not.

15 Q So if they had done that, it would have
16 been a false --

17 MR. RASKOPF: Withdrawn.

18 BY MR. RASKOPF:

19 Q If they had done that, it would not
20 represent the -- a true license for the use of that
21 logo on behalf of the entire tribe. Right?

22 MR. FERMAN: Objection. Calls for a legal

1 conclusion. Speculation.

2 BY MR. RASKOPF:

3 Q Go ahead, you can answer yes or no.

4 A I want to make a comment that -- about this
5 that I would have made earlier.

6 Q Okay. But could you first answer my
7 question yes or no.

8 A What is yours?

9 Q You don't believe they have the authority
10 to issue a license, the tribal council doesn't have
11 the authority to issue a license on behalf of the
12 Seminole Tribe for a third party to use that logo.

13 Is that correct?

14 A To use this logo, that's correct.

15 Q There is a logo that they do have the
16 authority to issue a license for?

17 A Yes. I don't know what that would be.

18 Q There is some logo that you believe they do
19 have the authority to issue a license for?

20 A Yes. Maybe they want to issue a logo of
21 some blinds that they create that say the Seminole
22 Tribe of Florida Blinds, and then they make a logo for

1 it, yes, they could issue that.

2 Q But there's something about that particular
3 logo that makes you say no?

4 A Yes.

5 Q And what about that particular logo makes
6 you say no?

7 A That this is supposed to be a
8 representative of Osceahola (phonetic), the you
9 mentioned earlier that you didn't pronounce right, but
10 neither does anyone else. But that's okay. Osceahola
11 is a Muscogee person, a mixed blood Muscogee person
12 that came down and the term Seminole was applied to
13 him by outsiders, by nonindigenous peoples.

14 And, therefore, one tribal council does not
15 have the authority, one tribal council that descends
16 from the historic Muscogee Nation does not have the
17 authority to say it's okay to use that individual.

18 Q So --

19 A Osceahola.

20 Q So people in a position of authority for
21 the entire Muscogee Nation would have had to be the
22 ones to issue a license for that particular logo.

1 Is that your testimony?

2 A Yes.

3 Q And does the use of that logo by the
4 university cause you any concern?

5 A Yes.

6 Q And why?

7 A One -- I went to a football game there one
8 time. Didn't even stay the entire time. I actually
9 just went to see the band, because I was thinking
10 about being in the band at this university. Because I
11 wanted to major in music, and they have, like, the
12 premiere music program in Florida. But I was so
13 uncomfortable at the football game in the stands with
14 people dressing like this.

15 I mean, people in the stands literally -- I
16 don't know if you've been to these -- I don't even
17 know how they do it at -- you know, at other places.
18 But people actually dress like this person, what they
19 think this persons looks like. They just mimic the
20 little mascot running around on the horse out there.

21 And that paint right there, in my culture
22 we wear one time a year, and that's during tvleporv,

1 and it's a sacred -- T-V-L-E-P-O-R-V. And it's a very
2 sacred competitive spiritual game.

3 And we only enter into that, I can't tell
4 you all about this because it's esoteric ceremonial
5 knowledge. But after been fasting and going through
6 ceremony and dancing all night, early that morning --
7 or late that night we begin to prepare for that, and
8 that paint is distributed.

9 That's a sacred thing. You don't put it on
10 a logo, and you don't allow other people in the stands
11 to apply that to their faces, mock our culture.

12 That feather right there, not anybody can
13 wear those feathers. Feathers are sacred. You have
14 to earn them. They have to be distributed in
15 ceremony. And women do not wear them.

16 And I look around that stand, and people
17 are wearing those. They are mocking our culture.

18 Q They're wearing feathers?

19 A They're wearing feathers.

20 Q Okay.

21 A They've got the paint on, they're doing
22 this bull. I am going to brutalize you like Indians

1 do.

2 Q You're making a movement of the arm from
3 the elbow joint forward and back.

4 A To which they identify as the tomahawk
5 chop. And they say, Oh, yeah, we're going to
6 brutalize you like Indians do.

7 This guy that's riding around on the horse
8 is a white man who's painted up and throwing the spear
9 in there, in the ground. And it makes me sick.

10 So needless to say, I didn't go to that
11 school.

12 Q So does the football team wear that logo on
13 the side of their helmet?

14 A Yes.

15 Q They have war paint on their helmet?

16 A Let me think now. I don't know. I don't
17 remember. I think they had a spear or something on --
18 I don't remember.

19 Q You don't know. Did they actually put war
20 paint on the helmet?

21 A What do you mean, painted on there?

22 Q What do you understand that the team --

1 A People in the stands are doing all of this.

2 Q Let's put aside the people in the stands
3 and just do you know what the university, the people
4 who play for the university, what logo they employ?

5 A I don't remember. It seems like they had a
6 spear on there with some feathers, once again
7 something sacred that you just don't go putting around
8 on helmets or whatever.

9 Q All right. So no logo with a spear or a
10 feather would be acceptable, as far as you're
11 concerned?

12 A Correct.

13 Q All right. Earlier you testified that you
14 saw the mascot of the Redskins "all over the freakin
15 city."

16 Do you remember that?

17 A Yes.

18 Q What mascot were you referring to?

19 A The -- well, it wasn't just the mascot.
20 Well, it was the -- the logo.

21 Q What logo?

22 A The -- the profiled Indian with the paint

1 and feather, feathers.

2 And you know what do you call these things,
3 these flags, you know, that people fly? The example
4 that really blew me away was, I went to this place
5 called Ben's Chili Bowl. And they sat us in this
6 section. And like right there was a whole wall full
7 of the Washington football team, you know,
8 paraphernalia, and jerseys.

9 And I don't remember everything that was on
10 there. But those flags, you know. Like this, the
11 triangle. I forgot how you say that.

12 Q You mean a pennant?

13 A Pennant, yes. Yes, pennant.

14 Q So there were pennants that had the logos
15 of the Washington Redskins on them?

16 A Yes. And the word on there written across
17 it, yeah.

18 Q And both the words and the logo trouble
19 you?

20 A Correct.

21 Q And where was this place that you saw
22 the -- that you saw this paraphernalia?

1 A Ben's Chili Bowl.

2 Q Ben's Chili Bowl?

3 A I think that's what it's called.

4 Q Is that nearby?

5 A I don't know. Somewhere here in town.

6 They took us there, yeah. And then they apologized
7 profusely.

8 Q What do you mean they took us there?

9 A The United Methodist -- I don't even
10 remember what office that was. But it was a tall
11 woman with glasses, who was very nice.

12 And then when we were back there, she came
13 over and she said, Is everything okay? And I said,
14 well, I'm disturbed, you know, that -- that you would
15 bring us here, because the discourse of the day was
16 social justice, and here we are. And we had -- we had
17 spoken about racism and mascots.

18 Q Was this yesterday or today --

19 A Oh, no, no.

20 Q -- or 2008?

21 A This was in 2008, yeah. Yeah.

22 Q All right. I got the impression that you

1 were talking about something that you saw this
2 morning.

3 A Oh, I'm sorry.

4 Q That --

5 A I did see something this morning.

6 Q That was all over the freakin city that
7 troubled you?

8 A Yeah, I did see this morning people have
9 bumper stickers all over here. They have in the
10 restaurants, they're obviously very proud of their
11 team who were --

12 Q But you take it more personally than
13 they're being proud of their team. Right?

14 A Yeah. Because they're using something that
15 belongs to us.

16 Q Okay.

17 A We are people; we're not their mascots.

18 Q Right.

19 A You just agreed with me. You said right.
20 I said we are people, not their mascots. And you said
21 right. I appreciate that.

22 (Briggs-Cloud Exhibit 6 marked for

1 identification, to be attached to the transcript.)

2 A Wow, this is a nice.

3 MR. RASKOPF: Please note the laughter at
4 the end of his comment.

5 BY MR. RASKOPF:

6 Q Have you seen this before, Exhibit 6?

7 A Yes. Uh-huh.

8 Q Have you read the article?

9 A Yes.

10 Q And do you see the picture on the front?

11 A Yes.

12 Q You have seen that before?

13 A Yes.

14 Q And someone took that picture of you?

15 A Correct.

16 Q That's you. Right?

17 A That is me.

18 Q And they took it adjacent to some Native
19 American imagery?

20 A Ledger art, yes.

21 Q And --

22 A Done by Butch Thunderhawk.

1 Q And you consented to this photograph?

2 A Yes.

3 Q And you have no problem that Harvard
4 University employed this photograph in the Harvard
5 Gazette. Right?

6 A No. This was not the photo that we agreed
7 on, but it's okay.

8 Q It does or does not bother you?

9 A It does not bother me.

10 Q Do you think this presents a stereotypical
11 image of a Native American --

12 A No.

13 Q -- to the public?

14 A No.

15 Q To any reader of the Harvard Gazette?

16 A No.

17 Q Why not?

18 A The purpose of -- of this picture was the
19 correlation to Chief Red Cloud. But through a hunka
20 relationship I am a descendant of the Lakota Chief Red
21 Cloud. And that's what we were drawing the
22 relationship here on.

1 Q So to do that you wore --

2 A I wear that every day.

3 Q You always wear that?

4 A Every day.

5 Q All right. So this is how you are in
6 everyday life?

7 A Every day.

8 Q And if, let's say, that your -- this
9 photograph of you were, you know, maybe modified the
10 way an artist might modify a, you know, logo to make
11 it less personal and more generic?

12 A To make a logo?

13 Q Yeah. To make it a little less -- change
14 it so maybe you weren't identified specifically, but
15 it contained all of the elements that are here, the
16 way artists usually do. Let's say that were applied
17 to the side of a football helmet. Would you consider
18 that to be a stereotypical image of a Native American?

19 MR. FERMAN: Object to the form of the
20 question. Improper hypothetical, lack of foundation,
21 et cetera.

22 You can answer.

1 A I still don't understand why would I -- why
2 would this be applied to a football helmet?

3 Q To be a symbol of the team.

4 A Well, that wouldn't be appropriate at all.

5 Q Well, no. I'm asking you whether you would
6 consider that to be a stereotypical image of a Native
7 American?

8 MR. FERMAN: Same objection.

9 A No.

10 Q Right. Because you are who you are right
11 now?

12 A Correct.

13 Q Right. So this is not drawn on any past
14 imagery. Right?

15 A Correct.

16 Q What if the image right next to you, the
17 drawing you alluded to, were applied to a product;
18 would that trouble you?

19 A Yeah. A product of what?

20 Q If this artwork were applied to the side of
21 a football helmet, would that trouble you?

22 A Yes.

1 Q Because that's ancient and --

2 A Because indigenous peoples do not belong on
3 the side of a football helmet at all, period,
4 exclamation point.

5 Q Okay. No matter what that designation is?

6 A Correct.

7 Q I'm going to show you a document that was
8 just produced out of your files.

9 (Briggs-Cloud Exhibit 7 marked for
10 identification, to be attached to the transcript.)

11 MR. RASKOPF: It's Briggs-Cloud Exhibit 7,
12 for the record.

13 BY MR. RASKOPF:

14 Q And if you can take a look at it.

15 Is this a document that you turned over to
16 counsel today?

17 A That's correct, yeah.

18 Q All right. And this is a copy of an e-mail
19 that you sent to --

20 A Ann Braude.

21 Q Ann Braude?

22 A Professor at Harvard, yes.

1 Q On October 11th, 2010?

2 A Yes.

3 Q And this accurately recounts the substance
4 of your e-mail to her?

5 MR. RASKOPF: Withdrawn.

6 BY MR. RASKOPF:

7 Q Word for word, this is the e-mail you sent
8 to her. Right?

9 A Yes.

10 Q Okay.

11 MR. RASKOPF: Exhibit 8 for identification.

12 (Briggs-Cloud Exhibit 8 marked for
13 identification, to be attached to the transcript.)

14 MR. RASKOPF: Counsel, with respect to
15 Number 7, we're going to get a substitute with 7 that
16 actually has a Bates number on the bottom.

17 MR. FERMAN: I can actually do that right
18 now.

19 MR. RASKOPF: Okay. Thank you.

20 For the record, the Bates stamp that will
21 now be on the document that was showed to
22 Mr. Briggs-Cloud is Briggs-Cloud 00370 to 371.

1 (Briggs-Cloud Exhibit 7 remarked for
2 identification, to be attached to the transcript.)

3 BY MR. RASKOPF:

4 Q Let's look at Exhibit 8.

5 A Oh, not Exhibit 7.

6 Q We're done with 7.

7 This came out of your files, 157 and 158,
8 Briggs-Cloud.

9 Do you remember this?

10 A Yes.

11 Q All right. And the original e-mail in this
12 chain is from Suzan Harjo to the petitioners in this
13 case?

14 A Yes.

15 Q All right. Do you know that Shquanebin
16 Lone-Bentley -- forgive the pronunciation, I'm sure
17 you know who I mean -- is no longer a petitioner in
18 this case?

19 A That's what I understand.

20 Q Yeah. Have you spoken to her?

21 A I have not.

22 Q Not communicated with her at all?

1 A No.

2 Q Have no idea why she is no longer --

3 A I have no idea.

4 Q -- a member of the group of petitioners?

5 A I do not. I have never met her. Wouldn't
6 even know what she looked like on the street.

7 Q Now, so the first e-mail in the chain is
8 from Suzan to that group. Right?

9 A Okay. Uh-huh.

10 Q And the first line is, "Dear friends, I'm
11 making another request for your referrals for Native
12 people who are 17 who have just turned 18."

13 A Yes.

14 Q Right?

15 And when did she make the first request?
16 This says "another request."

17 A I don't know. I don't remember.

18 Q Do you recall ever getting an e-mail from
19 her requesting referrals?

20 A I don't recall, but I'm sure I did. But my
21 OU e-mail account was the primary one I was using, and
22 it terminated my account. A lot of my e-mails were in

1 that account. So it could have been sent to there.

2 Q Okay. So what did you -- you have an OU
3 e-mail account?

4 A University of Oklahoma e-mail account.

5 Q Okay. And when was it terminated?

6 A Oh, I don't remember. 2009.

7 Q When was it opened?

8 A 2004, I believe. Whenever I started OU,
9 fall of --

10 Q So you had an e-mail account for about five
11 years?

12 A Uh-huh.

13 Q And it was terminated in 2009?

14 A Yes.

15 Q And why was it terminated?

16 A Oh, it just -- when you graduate or -- I
17 was on the staff there, I was teaching in the
18 anthropology department. And then when I left they
19 just terminated it.

20 Q And did you preserve copies of the e-mails
21 that you had gathered at that OU e-mail account
22 address?

1 MR. FERMAN: Object to the form.

2 You can answer the question.

3 A Did I save copies of those e-mails from the
4 OU e-mail account?

5 Q Yeah.

6 A No. I lost a lot of good papers in there,
7 too.

8 Q What were in -- what was in that account
9 that related to this case?

10 A Oh, I don't -- I don't know. Probably a
11 lot of interaction that I had with various persons
12 about the case; namely Jacob Tsotigh, Cornell
13 Pewewardi (phonetic), probably Suzan, probably friends
14 of mine that I was telling. I had a lot of active
15 academic conversations with people about the issues.

16 Q And you have no way of reconstructing
17 those?

18 A Sorry. Go ahead.

19 MR. FERMAN: Just give me time to object.

20 THE WITNESS: Okay.

21 BY MR. RASKOPF:

22 Q You have no way of reconstructing those

1 e-mails at this point. Right?

2 MR. FERMAN: Object to the form.

3 You can answer.

4 A Sorry. Yeah. The reason I'm so quick to
5 answer this is because I'm kind of mad that I didn't,
6 because there were other things pertaining to other
7 situations that I really could use from that right
8 now. Yeah. Like some good papers I wrote.

9 Q And before this e-mail account was
10 terminated, were you made aware of any obligation to
11 preserve records connected to this case?

12 THE WITNESS: Do you want to object? Okay.

13 A No, I was not.

14 Q Okay. You have an AOL account?

15 A Correct.

16 Q And you have a Gmail account?

17 A Correct.

18 Q This particular Exhibit 8.

19 A Yes.

20 Q It looks like you forwarded -- tell me if
21 I'm wrong. You forwarded this, Suzan Harjo sent you
22 an e-mail to your AOL account, and you forwarded it to

1 your Gmail account?

2 A Probably so, yes.

3 Q How long have you had both an AOL account
4 and a Gmail account?

5 A Oh, I've had the AOL account for quite some
6 time. Probably since I was -- I don't know the age,
7 actually. But I've had it longer than I've had the
8 Gmail account. I can tell you the Gmail account I've
9 had since -- what is this, 2011? Right? So
10 probably -- 2008 or 2009 I think is more accurate. It
11 was after my partner went off to the war I got Gmail
12 so we could Gmail chat.

13 Q Okay. So you got Gmail account since 2009,
14 and the AOL account since about when?

15 A I don't remember, but longer than that.

16 Q And was your OU account your primary
17 account before you lost it?

18 A Yes. It -- well, primary for what?

19 Q For all -- you know, all in purposes.

20 A No. I used the AOL account primarily for
21 correspondence with some relatives, maybe for music
22 things, maybe for some Native issues. Sometimes

1 people, friends or relatives would send to that
2 address. But the OU account would have been primarily
3 for -- for academic purposes and correspondence with
4 people who I met through academia or other -- other
5 social justice arenas, things like that.

6 Q Well, this e-mail Suzan Harjo sent you on
7 July 7th was addressed to your AOL account. Right?

8 A Correct. Yes. But I quit using the AOL
9 that much at that time. So I forward things that are
10 of significance to my Gmail account.

11 Someone hacked into my AOL account, so I
12 don't use it very much, gave me a virus.

13 Q Well, the account that you had given Suzan
14 Harjo in order for her to correspond with you was her
15 AOL account. Right?

16 A Well, she used to write to my OU account as
17 well.

18 Q Okay. Well, when she sent her first e-mail
19 out to the group of you and to the petitioners in the
20 original case, the account she used for you was your
21 AOL account, wasn't it?

22 MR. FERMAN: Object to the form.

1 Are you referring to the e-mail in this
2 exhibit?

3 MR. RASKOPF: No.

4 MR. FERMAN: Okay. Go ahead. Sorry.

5 A Oh, that I don't know. That I don't know.
6 If it's not -- if it's not this one, if it's not one I
7 produced, then I don't know. She may have sent the
8 original one to my OU account, for all I know.

9 MR. RASKOPF: Mark this Number 9.

10 (Briggs-Cloud Exhibit 9 marked for
11 identification, to be attached to the transcript.)

12 MR. RASKOPF: Bates Number 1030. It's
13 BLACKHORSE 1030.

14 THE WITNESS: Did you say we were done with
15 Number 7?

16 MR. RASKOPF: Maybe, maybe not.

17 THE WITNESS: Okay.

18 BY MR. RASKOPF:

19 Q This is Exhibit Number 9, and it came out
20 of Ms. Blackhorse's e-mail account, not your account.

21 Do you remember seeing the first e-mail
22 here from Suzan Harjo, to a group?

1 A Yes, I remember this.

2 Q All right. But you hadn't saved this?

3 A Correct. Well, see, in the -- on the AOL
4 account, at that time -- I don't know if it's still
5 like this because, like I said, I don't use it. But
6 if you open an e-mail and you don't intentionally save
7 it, it automatically deletes on the AOL account.

8 Q After what period of time?

9 A Right away. If you exit out of AOL and
10 have not hit the button that says "Keep as new," it
11 deletes it automatically.

12 Q And so things that came in that you didn't
13 keep as new would get deleted?

14 A Correct.

15 Q All right. And you didn't have a practice
16 of keeping as new every single e-mail that you would
17 have received that related to this case. Right?

18 A Correct.

19 MR. FERMAN: Object to the form of the
20 question.

21 Go ahead.

22 A Correct.

1 Q And do you know, do you have any idea how
2 many e-mails you would have received without knowing
3 of an obligation to maintain those e-mails --

4 MR. FERMAN: Object to the form of the
5 question.

6 BY MR. RASKOPF:

7 Q -- that were --

8 MR. FERMAN: I'm sorry. I thought you were
9 done.

10 BY MR. RASKOPF:

11 Q That are now gone?

12 MR. FERMAN: Object to the form of the
13 question.

14 A No, I do not.

15 Q Was it more than a hundred?

16 A I don't know.

17 Q Maybe, maybe not?

18 A If I was going to guess, it would be more
19 than that. But what -- I don't understand, though,
20 what you mean that pertain to the case. Just me
21 discussing it with people?

22 Q Yes.

1 A Yes.

2 Q That would be part of it.

3 So if that were part of it, it would be
4 more than a hundred. Right?

5 A Oh, I don't know. I said if I were going
6 to guess, that's what I would guess, but I don't know.

7 Q And your e-mail account, the one that she
8 addressed to you here, was your AOL account?

9 A Yes.

10 Q And that was by design. Right?

11 A Yes.

12 Q The handle is fekecvte@aol.com.

13 A Correct.

14 Q And that's you.

15 A Correct.

16 Q And so in 2006 your primary e-mail account
17 was the University of Oklahoma's account?

18 MR. FERMAN: Object. Objection. Asked and
19 answered.

20 Go ahead.

21 A Yeah, I did answer that already.

22 Q You can answer it again.

1 A Yes for -- it is my primary e-mail account
2 for certain things. And then the AOL is the primary
3 account for other certain things that I named earlier.

4 Q All right. And in 2007 that would be the
5 case, also, same answer?

6 A Yes.

7 Q And 2008?

8 A Yes.

9 Q Until you lost the ability to use it in
10 2009, it was your primary account?

11 MR. FERMAN: Objection. Asked and
12 answered, mischaracterized the former testimony.

13 Go ahead.

14 BY MR. RASKOPF:

15 Q Right?

16 A Yes.

17 Q When were you told that you had to, if
18 ever, when, if ever, were you told that you should
19 maintain documents, including e-mails that relate to
20 your case against the Washington Redskins?

21 MR. FERMAN: I'm going to object to that.
22 I think that's privileged, so I instruct you not to

1 answer.

2 BY MR. RASKOPF:

3 Q Did there come a time when you received
4 information -- did there come a time when you learned,
5 if ever, that you had an obligation to maintain
6 documents in this case? Go ahead.

7 MR. FERMAN: You can answer that yes or no.

8 A There did come a time.

9 Q Was it before this week?

10 MR. FERMAN: Hold on a minute. Let me just
11 think about it.

12 You can answer that question, too. Go
13 ahead.

14 A Yes.

15 Q Was it in 2010?

16 MR. FERMAN: Go ahead.

17 A I don't know, actually. I -- let me think
18 now.

19 Yes. It was -- I think.

20 Q In 2010?

21 A I think so.

22 Q So let's go back to Exhibit 8, which is the

1 Suzan Harjo's second request for referrals for Native
2 American people.

3 A Correct. Yes.

4 Q Did you try to locate anyone for her?

5 A Did I try to locate anyone for her?

6 Q For the petition.

7 A Yes.

8 Q And who is the person that you offered up?

9 A The person that is here on the page.

10 Q Name of?

11 A Qiara.

12 Q Qiara.

13 And who is Qiara?

14 A An acquaintance from the Winnebago Nation.

15 Q Okay. And she ultimately is not
16 participating in the lawsuit?

17 A Actually, I -- once I provide this
18 information, I don't know anything that happened after
19 that. I don't know anything that transpired. I don't
20 even know if she was contacted. I don't know.

21 Q You never had a conversation with Suzan
22 Harjo about it?

1 A I did not, no.

2 Q And you --

3 A I take that back. I did have a
4 conversation once on the phone with her or in person,
5 I don't remember. But I remember talking about how
6 great the conversation she had with Qiara's Aunt Sarah
7 Snake, who is my close friend. And they were
8 reminiscing about Rubin Snake, who really launched the
9 Native American Religious Freedom Act.

10 And so that's all I remember the
11 conversation. But I don't remember anything about
12 Qiara.

13 Q All you know is Qiara is not a petitioner?

14 A I do not that.

15 Q And you didn't personally reach out to her
16 to solicit her participation?

17 A I did.

18 Q Oh, okay. When?

19 A When is this?

20 Q In 2009.

21 A Yeah. Then.

22 Q Did you speak to her on the phone?

1 A I don't remember. I think I probably
2 talked -- spoke to Sarah about this. I wouldn't just
3 ask Qiara. I would go to her elder.

4 Q By elder, you mean parent?

5 A Oh, any elder relative of hers.

6 Q A relative?

7 A Yes.

8 Q A blood relative?

9 A It depends on what you mean by blood
10 relative. In the Indian world relative is taken very
11 seriously. So --

12 Q Unlike other groups of people?

13 A Well, adoption makes somebody a blood
14 relative in Indian society.

15 Q Oh, okay.

16 A But if you're asking in the western kinship
17 structure, yes, this is her blood relative, Sarah
18 Snake.

19 Q Got it. So you didn't have a conversation
20 directly with Qiara?

21 A I did have a conversation directly with
22 Qiara.

1 Q After you got permission?

2 A At some point, but I don't know -- I mean,
3 if you're asking me if I know her and have had
4 conversation with her, yes. But I don't remember if I
5 asked her about this case.

6 Q Okay. You don't have a specific
7 recollection of speaking to her about anything about
8 this case?

9 A No, I don't.

10 Q Do you exchange e-mails with her?

11 A No. I've probably exchanged a Facebook
12 message at one point with her, but I can't say for
13 sure. But I have seen her in person since this
14 happened. But we didn't discuss this.

15 Q Did Suzan Harjo tell you why she was
16 seeking referrals of Native persons who were 17 or
17 have just turned 18?

18 A She did not tell me, no.

19 Q And you didn't inquire?

20 A I did not inquire.

21 Q Were there any other people who you thought
22 of who declined to participate?

1 A There is one other person I thought of, but
2 I did -- it's not because they declined; it's because
3 Courtney Tsotigh got to him before I did.

4 Q And that's -- Tsotigh. Okay. Got it.

5 A Yeah. He's my former student.

6 Q Okay.

7 A And he is her cousin.

8 Q Right. Okay.

9 MR. RASKOPF: I have no further questions
10 of this witness at this time, subject to issues that
11 may arise with respect to further documents. That's
12 all.

13 A I wanted to mention something about the
14 Number 7 that you passed to me.

15 Q What about it? In what area, what subject
16 do you want to talk about?

17 A I just wanted to make note that the reason
18 I didn't get this job is because this case was on my
19 CV. And -- and that was very explicitly told to me.

20 Q Okay.

21 MR. FERMAN: Are you still done over there
22 on your side, subject to whatever it was?

1 MR. RASKOPF: Subject to the reservations I
2 made.

3 THE WITNESS: Excuse me a moment.

4 MR. FERMAN: Can we go off the record for
5 five minutes.

6 (Short recess.)

7 EXAMINATION BY COUNSEL FOR PETITIONERS

8 AND THE WITNESS

9 BY MR. FERMAN:

10 Q Mr. Briggs-Cloud, Mr. Raskopf asked you
11 about this petition for cancellation. Do you remember
12 that? Gover Exhibit 1.

13 A Yes.

14 Q And do you remember also Mr. Raskopf asked
15 you about these registrations, Gover Exhibits 3, 4, 5,
16 6, 7, and 8? Right here.

17 Do you recall looking at those?

18 MR. RASKOPF: Which question do you want
19 him to answer?

20 BY MR. FERMAN:

21 Q Do you recall looking at those, those
22 registrations?

1 A Yes.

2 Q Have you seen the marks that are depicted
3 inside the registrations before?

4 A Yes.

5 MR. RASKOPF: Objection to the form of the
6 question, but go ahead.

7 THE WITNESS: Sorry.

8 A Yes.

9 Q And turning then to Gover Exhibit 1, which
10 is the petition for cancellation. Where it says, "The
11 term 'redskin' was and is a pejorative, derogatory,
12 denigrating, offensive, scandalous, contemptuous,
13 disreputable, disparaging, and racist designation for
14 a Native American person," in Paragraph 1 on Gover
15 Page 781, which of those descriptions, if any, would
16 you say apply to the marks that are depicted in the
17 registrations that Mr. Raskopf showed you?

18 MR. RASKOPF: Objection to the form of the
19 question.

20 A All of them.

21 Q I'm going to show you --

22 MR. FERMAN: Can we have these marked as

1 Briggs-Cloud 10 and 11.

2 (Briggs-Cloud Exhibit 10 and Briggs-Cloud
3 Exhibit 11 marked for identification, to be attached
4 to the transcript.)

5 BY MR. FERMAN:

6 Q I would ask you to identify for the record,
7 if you can, Exhibits 10 and 11.

8 A Document 10 -- or Exhibit 10, I'm sorry,
9 is -- states my tribal enrollment number in the
10 Muscogee Nation of Florida. Exhibit 11 states my
11 descendancy from a federally recognized tribe.

12 Q And let me just keep this simple. Are you
13 a Native American or an American Indian or the
14 appropriate term as you would apply it?

15 MR. RASKOPF: Note my objection to the form
16 of the question.

17 BY MR. FERMAN:

18 Q I'll restate it. Are you a Native
19 American?

20 MR. RASKOPF: Note my objection to the form
21 of the question.

22 MR. FERMAN: What's the basis for the

1 objection?

2 MR. RASKOPF: He -- by his own testimony he
3 can't -- it's hard to say whether you're a Native
4 American or not. I don't know what standard you're
5 talking about.

6 So unless you ask a standard, I can't -- I
7 can't say what, whether -- unless you just want him to
8 say what he thinks he is.

9 MR. FERMAN: Is that a form objection?

10 MR. RASKOPF: Yeah, it's a form objection.
11 The question is ambiguous.

12 BY MR. FERMAN:

13 Q Do you find the question ambiguous,
14 Mr. Briggs-Cloud? Are you a Native American, do you
15 find that an ambiguous question?

16 A I am a Native. The term American, as
17 Steven Newcomb describes in his research that's
18 published in the Doctrine of Discovery, speaks about
19 American, the etiology being ame, coming from love,
20 the Latin root to love; and rica, being a command of
21 wealth and riches.

22 So to love wealth and riches, which is

1 founded on a capitalist ideology that I do not
2 subscribe to; thus, it's an inaccurate description of
3 who I am.

4 Q Let me just ask you very simply then.
5 These two documents I showed you as Exhibits 10 and
6 11. Are you, in fact, of multiple lines of Creek
7 Indian descent from a federally recognized tribe?

8 MR. RASKOPF: Note my objection to the form
9 of the question.

10 BY MR. FERMAN:

11 Q You can answer the question.

12 Is this a true statement in this?

13 MR. RASKOPF: Which question do you want
14 him to answer; the one you asked that I objected to,
15 or the new question?

16 MR. FERMAN: I'm going to rephrase the
17 question.

18 MR. RASKOPF: So this is a rephrased
19 question.

20 Would you read back the question, just so I
21 can see what it says?

22 (The reporter read the record as follows:

1 "QUESTION: You can answer the question.

2 Is this a true statement in this?")

3 MR. RASKOPF: In which exhibit?

4 MR. FERMAN: Exhibit 11.

5 MR. RASKOPF: Note my objection to the

6 form.

7 A This is a true statement.

8 Q And is Exhibit 10 true and accurate as

9 well?

10 A It is.

11 May I expand on that?

12 Q If you must.

13 A I must.

14 And the reason being, as I told you
15 previously, that the term "Creek" -- you remember me
16 talking about where the term "Creek" comes from, that
17 it's an externally imposed term that describes us
18 living along rivers and creeks?

19 However, creek is also, in my perception,
20 an accurate term to describe a confederacy of
21 autonomous etvlwv, E-T-V-L-W-V, etvlwv, which connotes
22 a nation. But not to be confused with the same

1 ideology rooted in the conflict of a nation state.

2 Which means that we can modify -- within
3 the nation state, which alludes to the comodification
4 of land, the imperialist nature that a nation state
5 has over territory. But in indigenous world view our
6 cosmology, our philosophical view, we don't believe in
7 the concept of ownership of land.

8 So the term "Creek" can be accurate in the
9 sense that it is -- that it describes the confederacy
10 of autonomous etvlwv, or nations, known as (speaking
11 Native American language) and on and on, as I
12 mentioned to you previously.

13 And in our language we don't use the term
14 "Creek" or -- or Seminole, or things like that. But
15 we say estcatvlke, E-S-T-C-A-T-V-L-K-E. Or in the
16 Mikasuki language, which is another language that is
17 spoken among my people, but is not mutually
18 intelligible to the language I just spoke, it's
19 yaatkeschathle, Y-A-A-T-K-E-S-C-H-A, and there would
20 be a character that you don't have, but you can put
21 T-H-L-E.

22 So these kinds of colonial categories that

1 are used to describe our people that's on record on
2 the Federal Register with the Bureau of Indian
3 Affairs, is what is on this documentation. But in our
4 language, I want to note that we describe ourselves
5 differently.

6 MR. FERMAN: I don't have any further
7 questions for this witness.

8 MR. RASKOPF: I have no questions.

9 MR. FERMAN: We'll read and sign,
10 obviously.

11 (Signature having not been waived, the
12 deposition of MARCUS ANTHONY BRIGGS-CLOUD was
13 concluded at 12:27 p.m.)
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ACKNOWLEDGMENT OF DEPONENT

I, MARCUS ANTHONY BRIGGS-CLOUD, do hereby
acknowledge that I have read and examined the
foregoing testimony, and the same is a true, correct
and complete transcription of the testimony given by
me and any corrections appear on the attached Errata
sheet signed by me.

(DATE)

(SIGNATURE)

(NOTARY PUBLIC)

CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, Debra Ann Whitehead, the officer before whom the foregoing proceedings were taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 5th day of July, 2011.

My commission expires September 14, 2013.

NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

IN RE: Blackhorse, et al. -v-
Pro-Football, Inc.

(DATE) MARCUS ANTHONY BRIGGS-CLOUD

1 E R R A T A S H E E T C O N T I N U E D

2 IN RE: Blackhorse, et al. -v-

3 Pro-Football, Inc.

4 PAGE LINE CORRECTION AND REASON

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